

In the Matter of:

Captain Linlor

v.

Polson

Michael Polson

October 20, 2017

Casamo

Court Reporting
Videography
Videoconferencing

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1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF VIRGINIA
3

4 -----+
CAPTAIN JAMES LINLOR, PRO SE, :
5 Plaintiffs, :
6 vs. :CASE NUMBER
7 MICHAEL POLSON, :
in his individual capacity, :
8 Defendant, :
9 -----+

Alexandria, Virginia
Friday, October 20, 2017

11 MICHAEL G. POLSON,
12 called for examination by counsel on behalf of the
13 Plaintiff, Captain James Linlor, Pursuant to Notice
14 taken in the Offices of Casamo and Associates, 1010
15 Cameron Street, Alexandria, Virginia 22314, at
16 approximately 9:03 a.m., before Janie Arriaga, a
17 certified Verbatim Reporter, and a Notary Public in and
18 for the Commonwealth of Virginia, when there were
19 present on behalf of the respective parties.
20
21
22

1 APPEARANCES:

2 On behalf of the Plaintiff:

3 CAPTAIN JAMES LINLOR, PRO SE

4 Linlor and Associates

5 1405 South Fern Street, Suite 90341

6 Arlington, Virginia 22202

7

8 On behalf of the Witness:

9 D'ONTAE D. SYLVERTOOTH, ESQUIRE

10 DENNIS C. BARGHAAN, JR., ESQUIRE

11 Assistant United States Attorney

12 2100 Jamieson Avenue

13 Alexandria, Virginia 22314

14

15 On behalf of TSA:

16 NATHAN S. BRYANT, ESQUIRE

17 Transportation Security Administration

18 Office of Chief Counsel

19 601 South 12th Street Floor 12,

20 Arlington, Virginia 20598

21

22 ALSO PRESENT: Mr. Smith, Assistant to Captain Linlor

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1 P R O C E E D I N G S

2 THE VIDEOGRAPHER: This is the video
3 deposition of Michael Polson in the matter of Captain
4 James Linlor, pro se, versus Michael Polson, in his
5 individual capacity, Case Number 1:17CV13, in the United
6 States District Court in the Eastern District of
7 Virginia, Alexandria Division. This deposition is being
8 held on October 20th, 2017, beginning at 9:03 a.m. The
9 address is 1010 Cameron Street, Alexandria, Virginia.

10 My name is Bill Casamo. I'm the
11 videographer representing Casamo and Associates.
12 Counsel will now introduce themselves and whom they
13 represent.

14 CAPTAIN LINLOR: Good morning, this is Captain
15 James Linlor, pro se.

16 MR. SYLVERTOOTH: D'Ontae Sylvertooth,
17 representing Mr. Polson in his individual capacity.

18 MR. BRYANT: I'm Nathan Bryant, attorney
19 advisor in the Office of Chief Counsel of the
20 Transportation Security Administration. I'm here
21 representing TSA in its capacity as the federal agency
22 responsible for regulating Sensitive Security

1 Information or SSI in this matter.

2 THE VIDEOGRAPHER: Also present is the court
3 reporter, Janie Arriaga. Would you please swear in the
4 witness.

5 MICHAEL G. POLSON,
6 was called for examination by Counsel on behalf of the
7 Plaintiff, and after having been duly sworn by the Court
8 Reporter was examined and testified as follows:

9 EXAMINATION BY COUNSEL FOR PLAINTIFF:
10 BY CAPTAIN LINLOR:

11 Q Okay. First off, is it -- do you prefer to go
12 by Mr. Polson or Officer Polson? How would you like to
13 be addressed, please?

14 A Mr. Polson is fine.

15 Q Mr. Polson. Mr. Polson, are you aware that
16 you are under oath now?

17 A I do.

18 Q Okay. And is there any reason that you would
19 not be able to provide full, truthful and accurate
20 answers to all questions that are asked of you?

21 A I see no objection to that point.

22 Q Okay. Are you taking any medication that

1 might impact your ability to provide true, full and
2 accurate information?

3 A I'm not on any medication.

4 Q Have you been in a deposition before,
5 Mr. Polson?

6 A Negative.

7 Q So let's clarify a couple of things. Where
8 did you receive service of the subpoena for this case,
9 please?

10 A The subpoena for this deposition?

11 Q The subpoena for this case originally?

12 A I don't understand the question.

13 Q You were served a subpoena for the claim
14 against you in this case, a violation of the Fourth
15 Amendment for excessive force during a pat down search.
16 Do you understand that, please?

17 A Is this the same piece -- is this the same
18 paper that was delivered to me at my house by the agent?

19 Q Yes. It would have been there.

20 A Okay. That was --

21 Q So you received --

22 A -- at my home, my residence.

1 Q You received that at your home.

2 What address did you receive that at?

3 A 617 Carlton Otto Lane, Apartment 23, Odenton,
4 Maryland 21113.

5 Q And then afterwards, what did you do after you
6 received that subpoena with the complaint?

7 MR. SYLVERTOOTH: Form.

8 CAPTAIN LINLOR: Can you be more specific as
9 to what part of the form?

10 MR. SYLVERTOOTH: That question is vague and
11 ambiguous.

12 CAPTAIN LINLOR: Thank you.

13 BY CAPTAIN LINLOR:

14 Q What steps did you take regarding the subpoena
15 after you received it?

16 A I took no steps with that. I was being
17 contacted with -- by the Department of Justice as
18 representation for qualified immunity, to provide my
19 representation. They had given me a heads up I was
20 going to be receiving such paperwork, and I believe I
21 signed a paper with your agent of receiving it.

22 Q So you expected to receive it?

1 A Correct.

2 Q Why do you believe that you would fall under
3 qualified immunity?

4 A Qualified immunity covers me as an agent
5 officer with TSA within my scope of duties.

6 Q You said as an officer in your scope of
7 duties; is that correct?

8 A That is what I said.

9 Q Can you define why you used the term officer?

10 A My role was TSO, transportation security
11 officer, with TSA.

12 Q Do you believe that a TSO is the same as a law
13 enforcement officer?

14 A I do.

15 Q Do you believe that you have qualified
16 immunity as a law enforcement officer?

17 A I do.

18 Q Tell me by your recollection -- well, first
19 off, what did you do to prepare for this deposition
20 today?

21 A Three days ago I met with my counsel, D'Ontae,
22 at his office, and we did a prep session. And that's

1 all I've done.

2 Q Did you review any documents?

3 A Yes. I saw my personnel file for the first
4 time. I saw an OJT checklist that I had received in
5 form on that day. And I believe that's all I can recall
6 seeing on that day.

7 Q Have you seen any statements from any other
8 witnesses?

9 A I have not.

10 Q Have you reviewed any statements from any
11 other witnesses?

12 A I have not.

13 Q What -- let's do a little bit of background on
14 you first. What jobs have you held, Mr. Polson?

15 A Coming out of high school, I worked for Best
16 Buy followed by the military. I was active duty Air
17 Force. I did active duty for four years. At the end of
18 my contract, I transferred to the Reserves. I am
19 currently in the Air Force Reserves. Following my
20 active duty time, I also worked for Sears. And then I
21 received my job with TSA. And now, currently, I am a
22 Secret Service officer.

1 Q What were the dates of your employment with
2 the TSA?

3 A I was employed with TSA from October of 2015,
4 until September of 2016.

5 Q And in September of 2016, is that when you
6 applied for your current employment with the Secret
7 Service?

8 A No, sir. I'd applied back in January of 2016,
9 and I received my actual class start in September.

10 Q Let's talk about the incident of March 10th,
11 2016. Can you summarize what you believe happened on
12 the date of March 10th, 2016, of your interaction -- and
13 I'll refer to myself as the Plaintiff -- between
14 yourself and the Plaintiff, at Dulles Airport at the
15 security check -- TSA security checkpoint?

16 A My full narrative is what you're searching
17 for?

18 Q Yes, but you can give it to me in your own
19 words.

20 A My narrative was my own words. So we have --
21 on the day in question, I was working at checkpoint
22 50/51. It's next to precheck on the ticketing level at

1 Dulles Airport. I was working as a dynamic officer,
2 meaning that I float between different positions to
3 provide assistance to other officers on that checkpoint
4 lane. And typically, we also respond to any pat down
5 requests from passengers approaching our lane.

6 I received a call from another officer for a
7 male opt out side door, which to us means there's a pat
8 down for a male. So I responded to that. That's the
9 first time I interacted with you, sir.

10 And then I immediately started asking you the
11 divestment questions we have. Everything out of your
12 pocket, make sure your shoes are off, your belt is off.

13 I remember you had a wallet that you didn't
14 want to put into the x-ray because you said you had
15 credentials within it. So I was -- I notified my lead
16 TSO who is in charge of that lane, and then he
17 notified -- he was searching for the supervisor because
18 anything that deviates from our checkpoint I just need
19 to elevate to make sure other people are aware of.

20 And then we continued talking. And I had you
21 eventually remove your credentials from your wallet.
22 However, you removed everything from your wallet. And

1 then we inserted the wallet into the x-ray, I escorted
2 you in through the side door beside the walk-through
3 metal detector. I had you stand over on the pat down
4 area while I retrieved your baggage from the conveyor
5 belt. I put that on the table behind me, that would be
6 in front of you, sir, and then we began the pat down.

7 And during the pat down, you jumped off the
8 mat. And I don't remember the exact words you used. My
9 supervisor, STSO Whetsell, was directly behind me,
10 facing away at the time. So he turned around when you
11 started yelling. And I remember he came into the
12 conversation at that point. And I pretty much stopped
13 talking and just stood there because I knew that I
14 really had no supervisory role at that point.

15 Q Okay. So the incident started on the -- would
16 you call it the concourse side of the checkpoint?

17 A You -- I was on the sterile side while you
18 were on the dirty side, sir, of the checkpoint.

19 Q Okay. I just wanted to -- wanted to clarify
20 the term so we're using the same terminology.

21 A Okay.

22 Q So you're calling it the dirty side is the

1 passenger side prior to any going through metal detector
2 or anything. It's on the concourse side?

3 A I would agree, sir.

4 Q That's where the interaction started?

5 A Correct.

6 Q Is there a video of that interaction?

7 A I'm not aware. I have not seen any video.

8 Q Have you seen the video that your counsel
9 provided to me on your behalf that is supposed to show
10 the entirety -- let me ask, sorry. Let me ask the
11 question.

12 CAPTAIN LINLOR: I'll beat you to it as far as
13 form.

14 BY CAPTAIN LINLOR:

15 Q Do you believe that the video presented by
16 me -- to me by your counsel shows the entirety of the
17 incidents of that day?

18 A I have not seen any --

19 MR. SYLVERTOOTH: Form.

20 THE WITNESS: Excuse me.

21 CAPTAIN LINLOR: Form as far as?

22 COURT REPORTER: I didn't even hear you. You

1 said form?

2 MR. SYLVERTOOTH: Yes.

3 CAPTAIN LINLOR: I'm sorry, sir. You're an
4 experienced attorney. You say form very quickly. For
5 those that are not experienced attorneys, if you can
6 just slow down for us and just enunciate it.

7 MR. SYLVERTOOTH: I can do that. I apologize.

8 BY CAPTAIN LINLOR:

9 Q So you've not seen the video, Mr. Polson? I
10 believe that's what you just said.

11 A That is correct.

12 Q But the events of that day did begin on what
13 you're calling the dirty side, on the concourse side?

14 A You were on the concourse side, as you
15 referred to it, and I was on the sterile side of the
16 checkpoint, yes, sir.

17 Q Do you believe that those events are
18 significant to having started in motion the series of
19 events of that day?

20 A I don't understand the question.

21 Q Was my declining to hand over my wallet
22 significant?

1 A Yes, sir.

2 Q Do you agree that significant items should be
3 captured on -- memorialized on videotape?

4 MR. SYLVERTOOTH: Form.

5 BY CAPTAIN LINLOR:

6 Q Do you believe that -- are there -- let's take
7 a step back. Are there -- are there video cameras
8 recording at the security checkpoint?

9 A Yes.

10 Q How many security cameras are there?

11 A I do not have knowledge of that.

12 Q In your opinion, how many security cameras do
13 you think there are?

14 A Several.

15 Q Several meaning -- can you range in number?

16 A More than 3, which would be few, and less than
17 50.

18 Q Okay. And I have a -- let me get the right
19 item here.

20 So the likelihood, in your opinion, is that
21 there would be cameras recording on, you're calling it
22 the dirty side; correct?

1 A We would have cameras covering a dirty side of
2 the checkpoint, yes.

3 Q Do you believe that the interactions that you
4 and I had on the dirty side should have been captured on
5 camera?

6 A In my opinion, I think every aspect of the
7 checkpoint should be video recorded.

8 Q That's a reasonable expectation; isn't it?

9 A In my opinion, I would -- I would expect that
10 for my own security as well.

11 (Polson Exhibit Number 1 marked for
12 identification.)

13 BY CAPTAIN LINLOR:

14 Q I'm going to enter into evidence, we'll call
15 this Exhibit 1. And it is a copy of a motion that was
16 actually filed with the court. I don't know the docket
17 number. I'm not sure if you know this. But it's
18 Plaintiff's Motion to Determine Spoliation of Evidence
19 and Appropriate Sanctions. And it was filed on the 10th
20 of October.

21 CAPTAIN LINLOR: Here is a copy for the
22 record. I'll give it to you. Here is a copy -- I'm

1 sorry, I've got one copy here and you all can share.

2 COURT REPORTER: I normally give the --

3 CAPTAIN LINLOR: Do you? Good.

4 COURT REPORTER: And then I'll collect it at
5 the end.

6 CAPTAIN LINLOR: Even better. Even better.

7 Well, in that case, you do get a copy.

8 MR. SYLVERTOOTH: You asked the question do I
9 know what docket number this is. And that is, no,
10 because I have never seen this. So this is the first
11 time that I have received this.

12 CAPTAIN LINLOR: Okay. So it was filed with
13 the court we served on --

14 MR. SYLVERTOOTH: No. The court -- this is
15 not from the docket whatsoever. I have never seen this.

16 BY CAPTAIN LINLOR:

17 Q If you can turn to page 39, Mr. Polson. I
18 admit that the font is very small. It's written -- it's
19 copied up at the top. But the two areas that I would
20 like to ask you to read are the areas that are in boxes,
21 and if you'd like we can help you with that if it's a
22 visual thing with no -- with nothing -- no impunity

1 intended. It's very small font.

2 A Just out of -- I'm sorry, I didn't understand
3 some of the legal jargon on the front here. What is
4 spoliation of evidence?

5 Q That's something that your attorney can speak
6 with you about afterwards, but right now I need to be
7 asking you some questions.

8 A Okay. Well, I'm not really sure what I'm
9 looking at until I can understand what --

10 Q I'm going to show you on page 39. If you can
11 turn to page 39. And the areas in the box -- and you
12 might need some more -- like I say, it's very small
13 font. In these two boxes, if you can read what is in
14 the first box there.

15 And this is an article, just for the reporter,
16 on page 39, Exhibit F, from the document is an article
17 from the Reno Gazette Newspaper, which talks about the
18 security and TSA in Plaintiff's residence State of
19 Nevada at Reno Airport, and also compares that to
20 security at Dulles Airport.

21 So there's two statements in here that I would
22 like to see if you could just read those for the record

1 so we can discuss them.

2 MR. SYLVERTOOTH: Two things. I'm going to
3 object to this for form on two bases. And right now
4 there's not a question pending. So Mr. Polson is here
5 to answer questions.

6 CAPTAIN LINLOR: I would -- I can ask
7 Mr. Polson to read two statements and then offer his
8 opinion.

9 BY MR. LINLOR.

10 Q My question is, will you please read the first
11 statement in the box?

12 A The first statement I see boxed on page 39,
13 Exhibit F: Interestingly, among the top dozen airports
14 for TSA paid claims, Reno Tahoe International was bigger
15 in total passengers than just two others, Omaha,
16 Nebraska and Washington Dulles.

17 Do you have a question?

18 Q Yes, I do.

19 So based on that statement, it sounds like
20 Dulles Airport has more passengers than Reno Tahoe
21 Airport. Would you agree?

22 MR. SYLVERTOOTH: I'm going to object to that

1 under Rule 7:01. Mr. Polson is not an expert here to
2 offer opinions about passenger travel.

3 CAPTAIN LINLOR: Noted, but it is not an
4 expert opinion that's being offered. It's an opinion
5 based upon a simple statement here.

6 So the witness may answer.

7 MR. SYLVERTOOTH: If the witness can answer.

8 BY CAPTAIN LINLOR:

9 Q The question is being asked --

10 CAPTAIN LINLOR: Could you read back the
11 question, please.

12 (Thereupon, the court reporter read back the
13 requested testimony.)

14 A In my opinion as a passenger, I can only --
15 I've never been to Reno, sir. I can only speculate
16 being probably the local airport to Las Vegas, I would
17 assume, it would be comparative to Washington Dulles.

18 BY CAPTAIN LINLOR:

19 Q I'm not trying to ask you to be an expert on
20 airport traffic at one airport versus another. That's
21 why I'm pointing to what is written in the box. In the
22 box, can you read the statement, the one sentence in the

1 box, and then we will repeat the question, please?

2 A From the first box in Exhibit F --

3 Q Yes.

4 A -- on Exhibit 39?

5 Q Yes, please.

6 A Interestingly, among the top dozen airports
7 for TSA paid claims, Reno Tahoe International was bigger
8 in total passengers than just two others, Omaha,
9 Nebraska and Washington Dulles.

10 CAPTAIN LINLOR: And now could you read back
11 the question from before, please.

12 (Thereupon, the court reporter read back the
13 requested testimony.)

14 A Based on this statement, in my opinion, I
15 would agree that is what the statement is saying in the
16 news article.

17 BY CAPTAIN LINLOR:

18 Q Okay. Now could you read the second statement
19 in the box, please, the second box?

20 A She said Reno security checkpoint and baggage
21 inspection areas are heavily populated with cameras, in
22 quotation, and the airport's periodic customer service

1 surveys shows strong satisfaction, end quotations, with
2 TSA.

3 Q Did she use the term "heavily populated with
4 cameras"?

5 A In quotations.

6 Q In quotations.

7 And does that statement affirm your previous
8 statement that there are -- that most all events at
9 security checkpoint should be captured on camera?

10 MR. SYLVERTOOTH: Form.

11 BY CAPTAIN LINLOR:

12 Q Do you -- do you recognize that it says,
13 heavily populated with cameras, in that statement?

14 A I recognize that it says that.

15 Q Do you recognize that based on the previous
16 statement, in your incurrence, that Dulles would have at
17 least -- based on these statements, Dulles would have at
18 least as many cameras as Reno?

19 A As my previous statement, I would agree that
20 TSA has several cameras within checkpoints.

21 Q Do you believe in your opinion that Dulles
22 Airport security checkpoints would be heavily populated

1 with cameras?

2 A I would agree that there are several cameras.
3 Heavily populated is a number I can't make a comment on.

4 Q Let's talk about your training as a
5 Transportation Security Officer. What type of training
6 did you go through?

7 A Upon hiring, I was given a class start date,
8 which is my original start of October 2015. The class
9 is four weeks long in a classroom setting based on a
10 40-hour workweek. So typically 8-hour days, 5 days a
11 week.

12 Following that classroom setting, we would do
13 OJT as well, on-the-job training, at the actual
14 checkpoints working operationally.

15 Q Did your training cover pat downs of
16 passengers?

17 A Yes.

18 Q Did your training cover pressure to be used
19 when patting down genitals?

20 A Yes.

21 Q Please describe that part of your training.

22 MR. BRYANT: Mr. Polson, before you answer,

1 I'll direct you not to disclose any SSI in your answer.

2 A When patting down the sensitive areas of the
3 male body, we always use the back of our hands. The
4 sensitive areas of the male body being the groin and
5 buttocks. Prior to any pat down, we do what is called a
6 hands off demonstration, which I did on the -- was doing
7 on the day of 10th, March 2016. Where for the inner
8 thigh you put one hand on the inner thigh, one hand on
9 the hip.

10 It's almost exact quotations where you have to
11 say this word for word: One hand on the inner thigh,
12 one hand on the hip. You go up until you meet
13 resistance between the leg and the torso, and then you
14 go down the rest of the leg. For the rest of your
15 sensitive areas, which are the groin and buttocks, I'm
16 going to use the back of my hands in a sliding motion.

17 The pressure applied for each varies per
18 passenger based on what you can tell between the
19 clothing and the skin so that you can make sure you're
20 actually clearing that passenger as required.

21 BY CAPTAIN LINLOR:

22 Q Let me diverse for one minute to be clear as

1 far as breaks and so forth. If you need to have a break
2 at any point, please let me know, and reasonable breaks,
3 of course, will be provided. I just want to make sure
4 that we're clear that if you are answering a question --
5 not that you have done this, but if you are answering a
6 question and you want to request a break, that you need
7 to finish answering the question before taking a break.
8 Do you understand that, please?

9 A I understand that.

10 Q Do you need a break now?

11 A I do not.

12 Q I'll ask that occasionally, but please feel
13 free to speak up if you do.

14 Okay. So what you are saying regarding the
15 training, those -- were there written procedures for
16 what you just described for training of patting down the
17 thighs, groin, and genitalia?

18 A There would be standard operating procedures
19 that we would review.

20 Q Did you review those in class?

21 A We reviewed them in class.

22 Q Do those procedures discuss the amount of

1 pressure to be used on passengers?

2 A Not to my knowledge.

3 Q Do they discuss excessive force that -- is
4 excessive force defined in the -- you call them standard
5 operating procedures. Would that -- do you -- I keep
6 backing up here.

7 Are the -- did you only use the standard
8 operating procedures in your training?

9 A Negative.

10 Q What other documents did you use in your
11 training?

12 A It was a PowerPoint based training
13 predominantly along with computer training. The
14 computer training predominantly would be practice for
15 x-ray performance, and then a lot of the PowerPoints was
16 explaining how to do the SOPs. SOPs being standard
17 operating procedures.

18 Q And in trying to help TSA, I'm not -- I'm not
19 asking for general SOP information. I'm asking
20 specifically to pat downs of the thighs, groins, and
21 genitalia, so that we aren't getting into an area that
22 TSA would be concerned about because we all want to have

1 good transportation security, in my best interest as
2 well as -- as well as everyone else.

3 So regarding thighs, groins, and genitalia,
4 are those the areas that you are referring to as
5 sensitive areas?

6 A I would refer to them as sensitive areas.

7 Q Are there other sensitive areas that we would
8 need to disclose -- exclude in our conversation so that
9 we can focus -- because I'm not asking questions about
10 buttocks, I'm not asking questions about breasts. I'm
11 asking questions about thighs, groins, and genitalia.
12 How would you like to use that term -- or what term
13 would you like to use so that we focus our conversation
14 on that?

15 A When you have a question about the inner
16 thigh, you can refer to it as the inner thigh.

17 Q I'm trying -- sorry.

18 A Otherwise, I mean, you have the groin being
19 the front and the buttocks being the back.

20 Q Okay. Can you define the difference between
21 thighs, groins, and genitalia?

22 A By SOP, it's -- you have the sensitive areas

1 including the groin and the buttocks for the males.

2 Inner thigh is considered a part of that, being in the
3 same region.

4 My personal definition of the difference
5 between a groin and genitalia is the groin is the region
6 of the body, while the genitalia would be a specific
7 area within that region.

8 Q Since we're not talking about buttocks that --
9 if we talk about sensitive areas, and I refer to them,
10 can we agree that sensitive areas, we are inclusive of
11 thighs, groins, and genitalia only?

12 A Yes, and I'll --

13 Q For purposes of this conversation?

14 A And I'll specify otherwise if I mean buttocks.

15 Q Thank you, perfect. So that we're just
16 talking about the same thing.

17 So for those sensitive areas, you said that
18 you referred to a presentation, PowerPoint presentation
19 as part of your training; is that correct?

20 A We would have received PowerPoints on all
21 subjects within our training.

22 Q Was there a particular PowerPoint referring to

1 those sensitive areas that we just -- as we defined that
2 term?

3 A I don't recall exact PowerPoints, sir.

4 Q Was there a title to any of the PowerPoints
5 that you recall?

6 A No, sir.

7 Q Is there a -- was there other -- was any of
8 the training that you received particular to the amount
9 of force that should be used in sensitive areas?

10 A The training that would refer to the pressure
11 we received training on would be practicing amongst
12 ourselves and with our instructors to search for objects
13 that would be hidden so that we can tell the difference
14 from body to body type of different types of passengers.
15 So that way when we interact with various types of
16 passengers, we can use different forms of pressure based
17 on what we're interacting with at that time.

18 Q What do you mean by various types of
19 passengers?

20 A Every passenger is different based on what
21 they're wearing. Predominantly that's the main factor
22 for us, is how thick clothing is, to then vary our --

1 make sure that we can tell the difference between the
2 clothing and the skin and anything that might be in
3 between.

4 Q So how would you change your pat down
5 procedure based upon the factors you just mentioned?

6 A You would need more pressure to feel the
7 difference between a thicker piece of clothing than the
8 skin, than say thin pieces of clothing and the skin.

9 Q How was the -- in your training, was the term
10 excessive force ever defined?

11 A I don't recall.

12 Q Was the term excessive force ever used?

13 A I don't recall.

14 Q Were there any measuring procedures to show
15 foot pounds per inch or any other measurement procedure
16 that you ever were instructed on?

17 A Not to my knowledge.

18 Q Were there ever any -- people sometimes might
19 call them crash test dummies, but medical -- medical
20 dummies or some type of anatomical representation that
21 would be able to measure the amount of force that you
22 were using?

1 A No.

2 Q How were you able to discern in your training
3 that you were not using excessive force?

4 A By practicing person to person with my
5 understanding -- first, may I ask can you define
6 excessive force for me?

7 Q Can you -- no. Can you define excessive force
8 for me?

9 A Excessive force would be anything beyond what
10 a reasonable officer would use under the same training,
11 education, and experience.

12 Q Can you be more specific --

13 CAPTAIN LINLOR: Can you read back the
14 Defendant's answer, please.

15 (Thereupon, the court reporter read back the
16 requested testimony.)

17 BY CAPTAIN LINLOR:

18 Q Can you be more specific in your answer as to
19 how that is a measurable quantity?

20 A Use of force has no set definition for every
21 circumstance possible. The supreme court ruled that in
22 Graham versus Connor, and so my training is based on use

1 of force under a reasonable officer's perspective.

2 Reasonable officer, again, is going to change
3 person to person, and under, based on their education
4 they received, the training they received, and the
5 experience that they've had.

6 Q Did you have any experience with excessive
7 force in your training?

8 A In my training? I did not.

9 Q Was excessive force discussed in your
10 training?

11 A No, not that I know of.

12 Q How will you know excessive force in your role
13 at TSO if it was not discussed in your training?

14 A Under the understanding of a reasonable
15 officer, as long as you act professionally, do what you
16 need to, it's an understanding that, you know, you're
17 hired to be professional, you're not hired to be rude to
18 anybody, you're not hired to be unprofessional in any
19 capacity.

20 Q Have you ever made a mistake in your pat
21 downs?

22 A Yes.

1 Q What mistakes have you made?

2 A In training I have missed objects while
3 training to feel differences between the clothing and
4 skin.

5 Q Can you describe the objects that you have
6 missed?

7 A Prohibited weapons, cell batteries, flat cell
8 batteries.

9 Q Where were those objects located?

10 A I don't recall the exact areas for each.

11 Q Were they located in the sensitive areas, as
12 we previously defined as being the thighs, groin, and
13 genitalia?

14 A I don't recall.

15 Q Do you think it's likely that they were
16 located in one of those three areas?

17 A I can't -- I can't speculate on either.

18 Q Would you have used -- would you have been
19 additionally vigilant inspecting sensitive areas, as we
20 defined to be thighs, groins, and genitalia, in
21 looking -- because of you having missed objects
22 previously?

1 A Are you -- are you talking on March 10th

2 or are you talking --

3 Q I'm only talking on March 10th. I'm not --

4 I'm not --

5 A I agree --

6 Q Mr. Sylvertooth is smiling. I'm not talking

7 in the history of the world. I'm talking March 10th.

8 A On March 10th, I wouldn't have varied one way
9 or the other. At that point I was confident in my
10 searching abilities.

11 Q When did you become confident in your
12 searching abilities?

13 A During OJT.

14 Q When did that occur?

15 A Following my four weeks of classroom work.

16 Q So would that have been sometime in around
17 October 2015?

18 A Closer probably to November, December time
19 frame, sir.

20 Q And this incident occurred in March, so this
21 was -- in March of 2016, so this was at least three to
22 four months after that; correct?

1 A That is correct.

2 Q Actually closer to five months; right? Right,
3 closer to five months between when you had your OJT
4 completion and this incident?

5 A If we're speculating that it was around
6 November December time frame, then four to five months
7 is what I would time that.

8 Q Okay. Okay. So you had plenty of time to
9 become confident in your skills as you put it?

10 A Yes.

11 Q How would you have -- so you've already stated
12 that excessive force was not defined by the TSA;
13 correct?

14 A I don't recall it being defined.

15 Q And how would you know -- and you said that
16 you have made mistakes; correct?

17 A On pat downs?

18 Q On pat downs.

19 A On pat downs, I have made mistakes.

20 Q So how would you know that none of your
21 mistakes were related to excessive force?

22 A The mistakes I made for not finding the

1 prohibited items would be based on me not providing
2 enough pressure.

3 Q So you have been -- as part of your
4 experience, you've learned to use more pressure;
5 correct?

6 A I've learned to vary my pressure.

7 Q How do you vary your pressure?

8 A Based on what I can feel between the skin and
9 the clothing.

10 Q Is the pressure consistent all the way through
11 your pat down?

12 A It can't be. It has to be varied.

13 Q How does it vary?

14 A So that I can tell the difference. As I
15 search the passenger, you cover different areas, and the
16 clothing either becomes bulkier, becomes thinner.
17 Everything is varied as you're doing -- even a single
18 body part. So as you're doing a search, the pressure
19 you apply is varied constantly.

20 Q Do you slide your hand in any of the three
21 areas that were previously referenced, the thigh, the
22 groin or genitalia? Do you slide your hand during the

1 search of any of those three areas?

2 A On the inner thigh you do.

3 Q And when do you stop sliding your hand?

4 A You slide all the way up until you meet
5 resistance between the leg and the torso, and then you
6 slide all the way down.

7 Q Will you -- will you agree that the -- the
8 resistance between the thigh and the torso would be the
9 area defined as the groin and genitalia?

10 A I would agree that it would be within the
11 genitalia region.

12 Q How much resistance do you impart before you
13 stop sliding your hand?

14 A I'm sorry, resistance --

15 Q How much resistance do you have to receive as
16 feedback to your hand before you stop sliding?

17 A As long as I can clear it as required by SOP,
18 I would then slide down the rest of the leg.

19 Q How do you know that you are not using
20 excessive force when you are, as you say, meeting
21 resistance?

22 A In my opinion, the force I would need is only

1 enough to clear it as required by SOP.

2 Q But you said excessive force has not been
3 defined by TSA.

4 A That is in my opinion.

5 Q In your opinion.

6 So how do you know that -- and so can you give
7 a level of pressure that defines the resistance that you
8 typically expect to enable you to stop sliding your
9 hand?

10 MR. SYLVERTOOTH: Form.

11 BY CAPTAIN LINLOR:

12 Q How much pressure do you use on patting down
13 the thighs, groin, and genitalia?

14 A Enough to tell the difference between the
15 clothing and the skin.

16 Q Is there a mathematical or scientific
17 description of that pressure?

18 A Not to my knowledge.

19 Q Have you ever asked that question to your
20 supervisors or TSA?

21 A I don't recall.

22 Q Have you ever been concerned that you might be

1 using too much pressure?

2 A I've never been concerned with using too much
3 pressure.

4 Q Have you ever received any feedback from any
5 passengers that you're using too much pressure?

6 A I don't recall.

7 Q Do you believe that you -- that you could have
8 received feedback from passengers if you were using too
9 much pressure?

10 A I believe it's possible to receive feedback on
11 all aspects of the security checkpoint.

12 Q In your opinion, what would be a normal
13 response to a -- from a passenger who was receiving
14 excessive force?

15 A They would probably say ow. In all honesty, I
16 mean, they would give me an indication that they were
17 hurt in some way.

18 Q During the pat -- during your pat down of the
19 Plaintiff, me, on 10 March 2016, how did I respond when
20 you were patting me down and you encountered resistance,
21 as you put it, when patting down my thighs, groins, and
22 genitalia? How did I respond?

1 A I had already met the resistance between your
2 leg and torso. As I was coming down the rest of your
3 leg is when I recall you jumping off the mat. And I
4 remember you jumped off the mat and started yelling. I
5 don't recall your words.

6 Q So you say that the -- you're calling it
7 jumping off the mat. You said that I jumped off the mat
8 is your term?

9 A Yes, as it's --

10 THE WITNESS: Can you read back what I said.

11 (Thereupon, the court reporter read back the
12 requested testimony.)

13 CAPTAIN LINLOR: Thank you.

14 BY CAPTAIN LINLOR:

15 Q Did I provide any feedback about potential
16 excessive force when your hand was up at my groin,
17 genitals, and thigh area?

18 A Not that I recall.

19 Q How many others were in your class at -- in
20 your training class at TSO?

21 A I don't recall exact numbers. I don't recall
22 exact numbers.

1 Q Do you think it was more than 20?

2 A No.

3 Q Do you think it -- can you give a range of
4 numbers in your opinion of best recollection?

5 A In my best recollection, I would say there
6 were more than 10 and less than 20 of us.

7 Q Do you keep in contact with any of them?

8 A No. I have social media with them where I see
9 updates, but I don't speak to them on a regular basis.

10 Q Do you -- what social media do you have?

11 A I have Facebook and Tumblr and -- I don't go
12 on social media a lot. To my knowledge, I would list
13 those right now.

14 Q Are you in touch with any of your previous
15 students from training on any of the social media
16 accounts that you listed?

17 A I didn't --

18 MR. SYLVERTOOTH: Form.

19 BY CAPTAIN LINLOR:

20 Q Do you have --

21 CAPTAIN LINLOR: Can you specify what part of
22 form?

1 MR. SYLVERTOOTH: Students, are you referring
2 to individuals whom he trained or --

3 CAPTAIN LINLOR: No. No. No. I'm
4 referring -- I'm referring to the students who were in
5 the class, who received TSO training with Mr. Polson.

6 THE WITNESS: Okay.

7 BY CAPTAIN LINLOR:

8 Q Have you ever been in contact with any of
9 those fellow students on social media?

10 A Yes.

11 Q Have you ever discussed any aspects of pat
12 down procedures with any of those students on social
13 media or anywhere else?

14 A I have not.

15 Q You have not. Do you know the contact info
16 for where you took your training?

17 MR. SYLVERTOOTH: Can you repeat that, I'm
18 sorry?

19 BY CAPTAIN LINLOR:

20 Q Do you know the contact info for where you
21 took your training?

22 A I don't remember the exact address. I know

1 that it was on Dulles Airport property. TSA has a
2 building there that we do classroom work in.

3 MR. SYLVERTOOTH: Captain Linlor, when there
4 is a moment, can we take a five-minute break -- or
5 three-minute break? I just need to use the restroom.

6 CAPTAIN LINLOR: Do you want to take a break
7 now, also, Mr. Polson?

8 THE WITNESS: I can take a break now.

9 CAPTAIN LINLOR: Sure, we can take a
10 five-minute break now and resume. And so we'll resume
11 at five minutes after.

12 Do you want to stop the videotape or keep it
13 rolling?

14 THE VIDEOGRAPHER: Stop the tape.

15 Going off the record at 9:49.

16 (Brief recess held.)

17 THE VIDEOGRAPHER: Back on the record at 9:57.

18 BY CAPTAIN LINLOR:

19 Q Mr. Polson, you stated previously that the
20 interactions between you and I began on what you refer
21 to as the dirty side of the checkpoint area; is that
22 correct?

1 A You were still on the dirty side, I would
2 agree.

3 Q Okay. And you believe that there was video --
4 likely video recordings of that?

5 A I can't speculate. I don't -- I'm not sure
6 what cameras cover what.

7 Q But in your opinion, the cameras should cover
8 that area also?

9 MR. SYLVERTOOTH: Objection; form.

10 A In my opinion, cameras should cover every
11 aspect of a security checkpoint.

12 BY CAPTAIN LINLOR:

13 Q Do you -- do you know of any -- were you ever
14 asked to retain the videos of this incident?

15 A Personally, I believe my legal counsel was
16 asked. I don't remember asking for any video myself.

17 Q Did I as the plaintiff ever ask for -- ask in
18 your presence for the videos to be retained?

19 A I don't recall.

20 Q If I had asked as an opinion, would you have
21 retained them?

22 MR. SYLVERTOOTH: He's here in his personal

1 capacity and his individual knowledge in regards to what
2 happened between you and him, not to give opinion
3 testimony.

4 CAPTAIN LINLOR: Actually opinion is covered,
5 Counsel.

6 BY CAPTAIN LINLOR:

7 Q Do you believe that it is your opinion to
8 retain evidence of an alleged crime?

9 MR. SYLVERTOOTH: Form.

10 A I would agree.

11 BY CAPTAIN LINLOR:

12 Q Did you take any steps to retain evidence of
13 an alleged crime on 10 March 2016?

14 A On that day -- on that day, I did not.

15 Q Let me rephrase the question. I wasn't
16 trying -- sorry, I wasn't trying to ask if you
17 necessarily took the steps on that day.

18 Did you take any action to retain evidence of
19 an event that occurred on 10 March 2016?

20 A It is my understanding that my counsel has
21 reached out to TSA to acquire a video. I don't know
22 what covers or what video was received.

1 Q Why do you hold that opinion?

2 A Because I --

3 MR. SYLVERTOOTH: I just want to caution you
4 not to discuss conversations that you had with attorneys
5 that represent you.

6 A Can you ask your question again, please.

7 CAPTAIN LINLOR: Can you please read back that
8 question.

9 (Thereupon, the court reporter read back the
10 requested testimony.)

11 A I don't know. I don't have -- it would seem
12 reasonable.

13 BY CAPTAIN LINLOR:

14 Q Is what you're saying that it would seem
15 reasonable for the attorneys to request to retain video
16 evidence?

17 A I would say it's reasonable to expect after a
18 court case becomes of an incident that especially with a
19 federal agency involved, in my opinion, they would
20 probably take steps to keep such video.

21 Q When you say "a court case becomes of an
22 incident" -- those were your words just now; correct?

1 THE WITNESS: Can you please repeat my exact
2 words.

3 (Thereupon, the court reporter read back the
4 requested testimony.)

5 BY CAPTAIN LINLOR:

6 Q So my question was, your exact words, which
7 were included in that statement, when a court case
8 becomes of an incident. Is that correct?

9 A When a court case becomes out -- comes out of
10 an incident.

11 Q Okay. Do you believe there is any -- do you
12 have any obligation to retain evidence prior to the
13 filing of a court case?

14 A I'm not aware.

15 Q Do you believe you have any -- that a prudent
16 person would want to retain evidence -- video evidence
17 of an alleged crime?

18 MR. SYLVERTOOTH: Form.

19 BY CAPTAIN LINLOR:

20 Q Is a prudent -- is it your opinion,
21 Mr. Polson, that video evidence can help to clarify
22 whether or not a crime occurred?

1 A In my opinion, a video can provide one point
2 of view for any incident.

3 Q What can it not provide?

4 A The whole picture.

5 Q How would you define that?

6 A Every story has more than one point of view.
7 Cameras can only give you one point of view.

8 Q How many videos were saved in this -- of this
9 incident?

10 MR. SYLVERTOOTH: Form.

11 A I'm not aware.

12 CAPTAIN LINLOR: For the record, let me state
13 that I as Plaintiff received one video from TSA in this
14 incident.

15 BY CAPTAIN LINLOR:

16 Q Would you -- Mr. Polson, would you want to
17 have all the videos saved?

18 MR. SYLVERTOOTH: Form.

19 A All the videos in this incident in question?
20 From what point of view?

21 BY CAPTAIN LINLOR:

22 Q To be able to show -- you said there are many

1 sides to a story; correct?

2 A I would agree.

3 Q Would you want to have all the videos saved to
4 show those many sides?

5 A In my opinion, video would still not provide
6 all sides.

7 Q What would be missing?

8 A All sorts of contrasts can be involved. The
9 video could be black and white. It could be color
10 video. It could tell you what kind of day it is. You
11 could involve the weather to tell a point of view.
12 There's so many types of points of view for a story,
13 sir. I believe the video itself is not all it takes.

14 Q Would the quality of the video make a
15 difference?

16 A It can, I believe.

17 Q How could the video -- do you know of -- can
18 you think of ways in your opinion that the video
19 could -- might be represented to -- or might be changed
20 so that it doesn't fully represent?

21 MR. SYLVERTOOTH: Form.

22 A I don't understand the question.

1 BY CAPTAIN LINLOR:

2 Q Are you familiar with the term "frame rate"?

3 A I am not.

4 Q Are you -- have you ever seen a movie?

5 A I have.

6 Q Do you know that there -- that there's a frame
7 rate used in movies?

8 MR. SYLVERTOOTH: Form.

9 A I'm not aware of the phrase.

10 BY CAPTAIN LINLOR:

11 Q Frame rate?

12 A Correct.

13 Q Frame rate is the number of frames per second
14 that are used in a movie.

15 A Okay.

16 Q Based on that definition, video security
17 cameras also have a frame rate if they are video. Do
18 you have any knowledge of frame rates of videos at the
19 security checkpoint at Dulles on March 2016?

20 MR. SYLVERTOOTH: Form.

21 A I'm not aware.

22 BY CAPTAIN LINLOR:

1 Q If frame rate -- so frame rate. Since frame
2 rate is used in videos, then would you agree that a
3 picture, a still picture, which is -- does not have a
4 frame rate is less representative than a video?

5 MR. SYLVERTOOTH: Form.

6 A I would not agree. No, I would not agree.

7 BY CAPTAIN LINLOR:

8 Q Do you believe that a single picture can show
9 as much information as a video?

10 MR. SYLVERTOOTH: Form.

11 A I do.

12 BY CAPTAIN LINLOR:

13 Q Could a -- could a still picture in your
14 opinion demonstrate excessive force?

15 MR. SYLVERTOOTH: Form.

16 A I believe certain aspects can be represented
17 by a still picture.

18 BY CAPTAIN LINLOR:

19 Q You said before -- I'm trying just to
20 paraphrase you -- that one of the ways someone might
21 respond to excessive force is by saying ouch. Are there
22 any other indications someone, in your opinion, might

1 use to demonstrate excessive force during a search?

2 A There are.

3 Q What would those be?

4 A Vulgar language.

5 Q Anything else?

6 A Hand gestures.

7 Q What type of hand gestures?

8 A It could be using the middle finger.

9 Q Do you think it would be reasonable to cover
10 one's genitals with a hand if excessive force had been
11 used?

12 A I think it's reasonable.

13 Q You mentioned vulgar language and a middle
14 finger gesture. Were those used in this -- in our
15 interactions at all at any time?

16 A I don't recall.

17 Q Were you placed under any type of arrest on 10
18 March 2016?

19 A Not to my knowledge.

20 Q What would constitute you being placed under
21 arrest?

22 MR. SYLVERTOOTH: Form.

1 BY CAPTAIN LINLOR:

2 Q What is your knowledge of arrests, Mr. Polson?

3 A I have --

4 MR. SYLVERTOOTH: Form.

5 A Would you like to rephrase the question?

6 BY CAPTAIN LINLOR:

7 Q Have you ever learned about arrest procedures?

8 A I have.

9 Q Where did you learn about arrest procedures?

10 A I am currently employed by the Secret Service
11 in a law enforcement capacity.

12 Q What training did they give you on arrest
13 procedures?

14 A I received all sorts of like training. I can
15 place people under arrest. I understand the judicial
16 law behind it or what gives me the authority to put
17 people under arrest. It's a very wide topic, sir.

18 Q Have you covered common law also known as
19 citizen's arrest in your training with Secret Service?

20 A We did not cover citizen's arrest in our
21 capacity, we would perform a legal arrest as a law
22 enforcement officer.

1 Q How do you perform an arrest as a law
2 enforcement officer when you are outside of your
3 jurisdiction?

4 A We do not.

5 Q You are not -- are you able to perform an
6 arrest outside your jurisdiction?

7 A It is my understanding in my current capacity
8 as a Secret Service officer that the only deviation I
9 currently have for my jurisdiction is domestic violence
10 where I do not have the ability to delay on that topic,
11 where I have to make an action and someone is going to
12 be put in handcuffs because of it.

13 Q Do you believe as a private individual you can
14 place anybody under citizen's arrest?

15 A I have never done so.

16 Q But do you believe that you can?

17 MR. SYLVERTOOTH: Form.

18 A I'm not aware of being able to.

19 BY CAPTAIN LINLOR:

20 Q If a felony crime occurred in your presence,
21 would you -- do you believe you have the right to place
22 someone under citizen's arrest?

1 MR. SYLVERTOOTH: Form.

2 A I would more likely take different steps of my
3 own opinion. I haven't placed anybody under citizen's
4 arrest. To me if I observe a felony in progress, I
5 contact the police, the local jurisdiction police.

6 BY CAPTAIN LINLOR:

7 Q Were the local -- who were the local
8 jurisdiction police on 10 March 2016, at Dulles Airport?

9 A MWAA, Metropolitan -- I don't even remember
10 their acronym.

11 Q Were they called to respond to this incident
12 on 10 March -- and "this incident," I'm referring to 10
13 March 2016, our interactions. Were they called to
14 respond to this incident?

15 A They were called.

16 Q Who requested them, originally requested them?
17 Let me be specific in my question. Who originally
18 requested them?

19 A I don't -- I don't recall.

20 Q Did you speak with anyone about requesting the
21 MWAA police?

22 A I did not speak with anyone about that.

1 Q Do you know who requested them on behalf of
2 any requests that were made?

3 MR. SYLVERTOOTH: Form.

4 A I don't -- again, I don't recall any -- as you
5 stated, the original requests being made by anybody, so
6 I can't make a comment on that.

7 BY CAPTAIN LINLOR:

8 Q In your statement, you used -- you put your
9 name as Michael G. Polson; is that correct?

10 MR. SYLVERTOOTH: Form.

11 A I don't -- which statement are you referring
12 to?

13 BY CAPTAIN LINLOR:

14 Q In the statement that was submitted by
15 counsel, Bates Stamped as Number 1, your statement from
16 the incident of 10 March 2016. You gave your name --
17 you listed your name with your middle initial and not
18 your full name spelled out; is that correct?

19 A I do not see the document in front of me. I'm
20 not aware of which one you're speaking of.

21 Q Why would in your practices with -- as a TSA
22 agent, why would someone use their full name or names

1 versus just their last name?

2 MR. SYLVERTOOTH: Form.

3 A I would say it's personal opinion.

4 BY CAPTAIN LINLOR:

5 Q If requested to do so, especially after a
6 crime has occurred, should someone provide their full
7 name?

8 MR. SYLVERTOOTH: Form.

9 A I don't believe so, no.

10 BY CAPTAIN LINLOR:

11 Q Why do you believe not?

12 A Under -- under what circumstances would they
13 give a full name?

14 Q If there was a responding officer or witness
15 or suspect, should people identify themselves fully in
16 your opinion?

17 MR. SYLVERTOOTH: Form.

18 A Can you rephrase the question?

19 CAPTAIN LINLOR: Can you read back the
20 question, please.

21 (Thereupon, the court reporter read back the
22 requested testimony.)

1 A Can you rephrase the question, please? I
2 remembered the question. I didn't understand the way
3 you were asking it, so I asked for a rephrase.

4 BY CAPTAIN LINLOR:

5 Q I'm not sure how else to rephrase the
6 question. Can you say what is unclear to you?

7 A I don't understand the question.

8 Q As a convention in society, do people have
9 more than one name?

10 MR. SILVERTOOTH: Form.

11 A As a convention? I don't understand that.

12 BY CAPTAIN LINLOR:

13 Q Do people in society in America, typically
14 identify themselves for having a first name, middle
15 name, and last name?

16 MR. SILVERTOOTH: Form.

17 A In my opinion, yes.

18 BY CAPTAIN LINLOR:

19 Q Do you identify yourself by having a first
20 name, middle name, and last name?

21 A I as an individual have a first, middle, and
22 last name.

1 Q On documents do you typically provide the
2 first, middle, and last name when you are writing in an
3 official capacity?

4 A I do not.

5 MR. SYLVERTOOTH: Form.

6 BY CAPTAIN LINLOR:

7 Q How do you put your name in an official
8 capacity? How do you represent it?

9 MR. SYLVERTOOTH: Form.

10 A I vary it.

11 BY CAPTAIN LINLOR:

12 Q In your opinion is there a reason why somebody
13 would -- a third party would refer to someone by their
14 first, middle, and last name instead of just their first
15 and last name?

16 MR. SYLVERTOOTH: Form.

17 A In my opinion I'm not aware of anyone other
18 than myself to give an opinion on.

19 BY CAPTAIN LINLOR:

20 Q Who is Mr. William Whetsell?

21 A Mr. Whetsell was my second supervisor at TSA.

22 Q Did he have a title?

1 A Supervisory transportation security officer.

2 Q And is there an abbreviation for that?

3 A STSO.

4 CAPTAIN LINLOR: I'd like to enter into
5 evidence an item already submitted during Defendants'
6 disclosures. It is Bates-Stamped as TSA 000027. There
7 is a copy for evidence and then a copy --

8 (Polson Exhibit Number 2 marked for
9 identification.)

10 BY CAPTAIN LINLOR:

11 Q For the record, this is a statement written
12 by -- signed by -- stated by Supervisory Transportation
13 Security Officer William Whetsell. And it's titled
14 beginning statement of events from 3/10/16, meaning
15 March 10th, 2016, at lane 50/51.

16 Mr. Polson, can you read this statement,
17 please, in its entirety, starting with "on Thursday"?

18 A This is the first time I'm seeing this
19 statement, if you can give me a second.

20 Q Read it out loud.

21 A Reading statement TSA 27: Statements --
22 statement of events from 3/10/16, at lane 50/51. On

1 Thursday, March 10, 2016, at 11:53, I was working at the
2 ETD machine located on the sterile side on lanes 50/51.
3 Transportation Security Officer TSO Michael Polson was
4 performing a standard pat down on passenger James Daniel
5 Linlor who had opted out of the body scanner.

6 I heard Passenger Linlor state that TSO Polson
7 had forcefully hit him in the testicle while performing
8 the pat down. I turned around to observe the situation,
9 and the passenger requested to speak to a supervisor. I
10 stated that I was the supervisor and asked how I could
11 assist. The passenger again stated that TSO Polson had
12 hit him in the testicle while performing the pat down
13 and stated that it was sexual assault.

14 The passenger stated that he did not want TSO
15 Polson to complete the pat down. I asked if the
16 passenger would like to speak with the police as he had
17 stated sexual assault. He stated that he would like to
18 speak with the police.

19 I notified the Incident Coordination Center,
20 ICC, at 11:55, and requested a Metropolitan Washington
21 Airport Authority, MWAA, Police Department P.D. TSM
22 Susan Callaghan and TSM Carl Johannes arrived at lane

1 50/51 and spoke with the passenger. MWAA P.D. arrived
2 at lane 50/51 at 12:00.

3 MWAA P.D. spoke with Passenger Linlor. TSN
4 Callaghan and TSN Johannes took MWAA P.D. to view the
5 video of the incident. After returning MWAA P.D. again
6 spoke with Passenger Linlor and stated that they would
7 not be filing a report.

8 Passenger Linlor asked the videos be placed
9 into an evidence chain of custody and that video of the
10 MWAA P.D. officers watching the video of the incident be
11 placed into an evidence chain of custody as well.

12 Passenger Linlor again requested that MWAA
13 P.D. place TSO Polson under arrest for felony sexual
14 assault. MWAA P.D. again denied the request. Passenger
15 Linlor then stated that if they would not place him
16 under arrest, then he would be placing TSO Polson under
17 citizen's arrest for felony sexual assault. MWAA P.D.
18 again denied his request.

19 Linlor requested the names of the MWAA P.D.
20 officers and stated he would be filing a complaint for
21 failure to perform their duties. Linlor also requested
22 my name. I wrote Supervisory Officer Whetsell on a card

1 for him.

2 Federal Security Director, FSD Scott Johnson
3 had arrived on scene and spoke with Passenger Linlor;
4 however, Linlor stated he would not be speaking with FSD
5 Johnson. MWAA P.D. stated that they were complete in
6 their work with Passenger Linlor.

7 I informed Passenger Linlor that I would then
8 have to complete the screening that had not been
9 completed earlier. I advised Linlor of the need for a
10 standard pat down. I gave Linlor all of his advisements
11 prior to beginning the pat down and asked if he had any
12 sensitive or sore areas, and Linlor stated that his
13 shoulder was sore and he could not lift his arm above 30
14 degrees.

15 I asked if Linlor would like a private
16 screening and he declined. I performed a standard pat
17 down and tested my gloves using the explosive trace
18 detection ETD machine. There was no alarm. The
19 passenger was cleared and allowed to continue to his
20 flight.

21 As stated by Supervisory Transportation
22 Security Officer William Whetsell.

1 That's the end of the statement.

2 Q Mr. Polson, were you present when Mr. Whetsell
3 arrived?

4 A Mr. Whetsell was already behind us, as I
5 recall.

6 Q How far behind did you say he was?

7 A I would estimate 3 feet.

8 Q That's pretty much --

9 A Our distance.

10 Q -- our distance clear across the table?

11 Would the things that were being said as
12 referenced in this statement be things that you could
13 hear?

14 A I can't make a comment on his statement, sir.
15 This is his statement, not mine.

16 Q I'm not asking about his statement. I'm
17 asking you if you could hear the words -- the statement
18 that he is describing in his statement?

19 MR. SYLVERTOOTH: Form.

20 A I can't recall anything that his -- I can't
21 make a comment on his statement.

22 BY CAPTAIN LINLOR:

1 Q Is -- how is your hearing?

2 A My hearing is very good, sir.

3 Q Can you usually hear conversations from 3 feet
4 away?

5 MR. SYLVERTOOTH: Form.

6 A Usually I can hear conversations from 3 feet
7 away.

8 BY CAPTAIN LINLOR:

9 Q Is there any reason at the TSA checkpoint on
10 10 March 2016, that you couldn't hear conversations from
11 3 feet away?

12 A To my recollection, I would say, no, there is
13 no -- no problem with me hearing 3 feet away on that
14 day.

15 Q Do you recall Mr. -- do you recall my saying
16 these things to Mr. Whetsell as far as -- and what is
17 written down here that -- it says Passenger Linlor asked
18 that the videos be placed into an evidence chain of
19 custody and that the video of the MWAA P.D. officers
20 watching the video of the incident be placed into an
21 evidence chain of custody as well.

22 And by the way, that is Passenger Linlor asked

1 that the videos, plural.

2 MR. SYLVERTOOTH: Form.

3 CAPTAIN LINLOR: That's not a question. I
4 have to ask a question before you can object to form,
5 Counsel.

6 MR. SYLVERTOOTH: You did ask a question. You
7 asked --

8 CAPTAIN LINLOR: I have? No. I was
9 reading --

10 MR. SYLVERTOOTH: I am not going to go back
11 and forth with you. You can continue.

12 CAPTAIN LINLOR: Thank you.

13 BY CAPTAIN LINLOR:

14 Q Based upon what I was just confirming for the
15 record, that I said videos, as stated here by
16 Mr. Whetsell, do you say that you did not hear my
17 requests as stated by Mr. Whetsell?

18 A I said I did not recall your requests as
19 stated by Mr. Whetsell.

20 Q Do you believe that they were not said loudly
21 enough or is it simply a recollection question?

22 A I don't recall your statements.

1 Q Do you deny that based upon Mr. Whetsell's
2 statement I requested that the videos be retained?

3 A I can't make a comment on his point of view,
4 sir. His statement is his point of view.

5 Q Do you deny that based upon Mr. Whetsell's
6 statement that I requested that the videos be retained?

7 A I cannot make a statement on his point of
8 view.

9 Q Do you understand that I'm asking for your
10 opinion of what is written?

11 A What is written is his point of view, and I
12 understand that.

13 Q Do you deny that his -- what is the words
14 written say that I requested the videos be retained?

15 A I don't understand the question. Can you
16 repeat, please?

17 Q Can you read the sentence in the second
18 paragraph starting with, Passenger Linlor asked that the
19 videos, please.

20 A How far would you like me to read?

21 Q I'll tell you when to stop.

22 A Passenger Linlor asked that the videos be

1 placed into an evidence chain of custody and that video
2 of the MWAA P.D. officers watching the video of the
3 incident be placed into an evidence chain of custody as
4 well. Passenger Linlor again requested that MWAA P.D.
5 place TSO Polson under arrest for felony sexual assault.
6 MWAA P.D. again denied the request. Passenger Linlor
7 then stated that if they would not place him under
8 arrest, then he would be placing TSO Polson under
9 citizen's arrest for felony sexual assault.

10 Q Could you stop, please.

11 In the statement you just read, does that
12 statement state that Passenger Linlor asked that the
13 videos be placed into an evidence chain of custody?

14 A In the statement I just read, the first line
15 states that Passenger Linlor asked that the videos be
16 placed into an evidence chain of custody.

17 Q Do you deny that that was in your presence
18 approximately 3 feet away as you stated previously?

19 A I do not recall.

20 Q Do you deny that when the interaction was
21 occurring that you were present?

22 A I do not recall.

1 Q This event -- do you recall the events on
2 March 10, 2016?

3 A I recall certain aspects, not the complete
4 event.

5 Q Do you recall Mr. Whetsell and I interacting?

6 A I do.

7 Q How far away were you?

8 A I would remember probably the same distance
9 between you and I. 3 feet, approximately.

10 Q 3 feet. So if Mr. Whetsell has documented the
11 interaction here, you -- are you denying that the
12 conversation as listed occurred?

13 A I do not recall the conversation as listed
14 occurred.

15 Q Do you have no recollection of the
16 conversation at all?

17 A Which conversation?

18 Q The conversation that you just read.

19 A I do not recall that conversation.

20 Q But you do not deny that it could have
21 occurred as Mr. Whetsell has stated?

22 A I can't speculate on someone else's statement.

1 Q I'm asking your opinion.

2 MR. SYLVERTOOTH: Form.

3 A I can't answer that question.

4 BY CAPTAIN LINLOR:

5 Q Does the statement identify that Passenger
6 Linlor was going to place you under citizen's arrest for
7 felony sexual assault?

8 A The statement reads: Passenger Linlor then
9 stated that if they would not place him under arrest,
10 then he would be placing TSO Polson under citizen's
11 arrest for felony sexual assault.

12 Q Do you recall that statement being made by me?

13 A I do not recall that.

14 Q Do you deny that the alleged statement was
15 allegedly made in your presence?

16 A I don't recall the statement being made.

17 Q Do you deny that Mr. Polson states that it was
18 made in your presence -- I'm sorry, Mr. Whetsell.
19 Apologies. Do you deny that Mr. Whetsell states that it
20 was made in your presence?

21 A I do not. His statement reads as such.

22 Q If a passenger is alleging felony sexual

1 assault, that sounds like a serious allegation; doesn't
2 it?

3 MR. SYLVERTOOTH: Form.

4 BY CAPTAIN LINLOR:

5 Q In your opinion, does that -- a felony sexual
6 assault sound like a serious allegation?

7 MR. SYLVERTOOTH: Form.

8 A In my opinion felony sexual assault would be a
9 serious allegation.

10 BY CAPTAIN LINLOR:

11 Q Would, in your opinion, anybody accused of
12 felony sexual assault want to have the video of the
13 alleged incident retained?

14 MR. SYLVERTOOTH: Form.

15 A In my opinion, I would want all possible
16 evidence of a crime made against me.

17 BY CAPTAIN LINLOR:

18 Q Were you aware on 10 March 2016, that a crime
19 was being alleged against you?

20 A I was.

21 Q What crime do you believe was being alleged
22 against you?

1 A Sexual assault was the crime I believe was
2 alleged.

3 Q Do you believe that it was a felony sexual
4 assault?

5 A I don't recall specifying felony. I just
6 recall sexual assault, sir.

7 Q Did you make any attempt to have the video --
8 videos, plural -- of the incident retained?

9 MR. SYLVERTOOTH: Form.

10 A At some point in these proceedings, I believe
11 steps were taken. Whether they were by me or someone
12 else, I do not know.

13 BY CAPTAIN LINLOR:

14 Q Do you know if you took any steps?

15 A I don't recall who requested the video.

16 Q Do you know if you took any steps?

17 A I don't recall.

18 Q Do you believe that you have any obligation to
19 preserve relevant evidence to a crime?

20 MR. SYLVERTOOTH: Form.

21 CAPTAIN LINLOR: There's more water if you
22 need some.

1 A I'm sorry, can you repeat the question.

2 CAPTAIN LINLOR: Can you repeat the question,
3 please.

4 (Thereupon, the court reporter read back the
5 requested testimony.)

6 BY CAPTAIN LINLOR:

7 Q What obligations to preserve evidence do you
8 believe that you have?

9 MR. SYLVERTOOTH: Form. Are you talking about
10 the incident between you and the March --

11 CAPTAIN LINLOR: I am.

12 MR. SYLVERTOOTH: I will withdraw form.

13 A For the incident on March 10th, 2015 -- 2016,
14 excuse me, when I left that checkpoint on that day, it
15 was my understanding that no crime had been committed
16 because the police had arrived, had -- and I believe
17 they had viewed video. I don't -- I did not see where
18 they went or what they had seen, but they came back, and
19 I was told that I had done correctly in my proceedings
20 following the SOP. So I took no steps on that day to
21 preserve any evidence.

22 BY CAPTAIN LINLOR:

1 Q Who told you you had done your steps correctly
2 on that date?

3 A There was a manager present, I don't remember
4 his name, who had come out of the office with the MWAA
5 police. And he's the one that came directly to me after
6 they left the office, and he's the one that spoke.

7 Q So it sounds like this manager would be pretty
8 important because he's giving you guidance of your
9 innocence or potential guilt; correct?

10 MR. SYLVERTOOTH: Form.

11 A His importance to me would be based on
12 hierarchy of chain.

13 BY CAPTAIN LINLOR:

14 Q Do you have any recollection or possible
15 recollection of who that might have been?

16 A I don't remember his name. I can only
17 describe what he looked like on that day.

18 Q What did he look like?

19 A He was a Caucasian male, taller than I. I'm 6
20 feet tall. And he had long dark hair.

21 Q Do you believe he -- do you know who the FSO
22 Scott Johnson is?

1 A There was no FSO, sir.

2 Q Do you know who Scott Johnson is?

3 A I do.

4 Q What is his title?

5 A FSD.

6 Q I stand corrected.

7 Do you -- was the person you're referring to
8 FSD Scott Johnson?

9 A No.

10 Q Do you believe he was higher than Scott
11 Johnson at TSA's hierarchy?

12 A No. At Dulles Airport, FSD Johnson is the
13 highest for TSA.

14 Q Have your Secret Service training regarding
15 arrests changed your viewpoint regarding citizen's
16 arrest?

17 A Again, I have not received training on
18 citizen's arrest.

19 Q But you still affirm that no citizen's arrest
20 was claimed against you on 10 March 2016?

21 A I don't -- where -- what are you reading? I
22 don't see what you're reading.

1 Q I'm asking you a question, sir.

2 A Can you restate what I'm alleged to have said?

3 Q I'm just asking you -- I'm asking to confirm
4 that your belief as represented in several statements
5 previously, that you believe you were not placed under
6 citizen's arrest on 10 March 2016?

7 A I do not recall being placed under any arrest.

8 Q But you are aware now that Mr. Whetsell's
9 statement claims that I placed you under citizen's
10 arrest on 10 March 2016?

11 MR. SYLVERTOOTH: Form.

12 A I would disagree.

13 BY CAPTAIN LINLOR:

14 Q Why do you disagree that his -- what do you
15 disagree with there?

16 A His statement would state otherwise, sir.

17 Q What do you think it states?

18 A His statement says: Passenger Linlor then
19 stated that if they would not place him under arrest,
20 then he would be placing TSO Polson under citizen's
21 arrest for felony sexual assault.

22 Q Do you believe that that didn't -- that that

1 arrest did not occur subsequently?

2 A I would agree.

3 Q So you believe that that statement just talks
4 about a future possibility but not the actual placing of
5 arrest?

6 A I believe that on March 10th, I was not placed
7 under any sort of arrest.

8 Q Do you believe that the words, I place you
9 under arrest, are required to place someone under
10 arrest?

11 A No.

12 Q When did you learn that?

13 A Someone is under arrest under certain
14 circumstances and they do not require a set phrase.

15 Q Where did you learn that?

16 A In my current training with the Secret
17 Service.

18 Q Did you learn that in any of your training
19 with TSA?

20 A No.

21 Q Or anywhere else?

22 A No.

1 Q So your opinion regarding arrests has changed
2 from working with Secret Service as when you were
3 working with TSA based upon your Secret Service
4 training; correct?

5 MR. SYLVERTOOTH: Form.

6 A I have been educated on forms of arrest, how
7 to place people under arrest, if that answers your
8 question.

9 BY CAPTAIN LINLOR:

10 Q Based upon your current training, do you now
11 believe that you were placed under citizen's arrest on
12 10 March 2016?

13 A I do not.

14 Q And why do you believe that you were not
15 placed under citizen's arrest?

16 A To be under arrest, you have to confine
17 someone. Someone cannot have freedom of movement, is
18 the essential thing. So freedom of movement, I was
19 still able to move freely, as my manager, I recall,
20 moved me away from the incident. So without a restraint
21 within the area, I was free to move on my own.

22 Q Do you believe that you were free to leave the

1 incident at that time?

2 A I did leave the incident at that time.

3 Q Define "leave," how far did you go?

4 A I left your point of view, your area of
5 control. I recall I went around the corner and down the
6 hall. I don't recall the distance. That would be --

7 Q So I couldn't see you?

8 A That would be correct.

9 Q Do you believe you were likely still in the
10 video that you and your counsel provided of the
11 incident?

12 MR. SYLVERTOOTH: Form.

13 A I have not seen the video, sir.

14 BY CAPTAIN LINLOR:

15 Q Do you believe that you were free to depart
16 your work duty and remain in the general vicinity, you
17 were free to go in that manner?

18 A On that day in question, I felt that I could
19 not leave until I'd signed my papers to leave on
20 overtime basis, as I had exceeded my shift.

21 Q But otherwise, you did not feel confined at
22 all or an obligation to return to speak with the MWAA

1 police officers or anyone else to close out the
2 incident?

3 A I didn't -- they did not approach me. They
4 specifically walked past me as I recall.

5 Q Did you come back to be in the vicinity with
6 me and other TSA agents after you had gone around the
7 corner and then come back into my field of view?

8 A I don't -- I don't recall going back around
9 the corner towards the pat down area.

10 Q Did you -- after you went around the corner,
11 did you leave at that point and not come back to the pat
12 down area?

13 A I did not.

14 MR. SYLVERTOOTH: Captain Linlor, while you're
15 doing that, I do just want to point out the fact that
16 Exhibit 2 has at least one, two, three, four markings in
17 red. And you're aware of that; is that right?

18 CAPTAIN LINLOR: Yes. I marked those to be
19 able to make it easier for topics of the conversation.
20 And the items underlined in red on -- were items -- were
21 my full name, including my middle name, and then the
22 segments of sentences that Mr. Polson was reading.

1 MR. SYLVERTOOTH: I just wanted the record to
2 be clear.

3 CAPTAIN LINLOR: Sure. No problem. You
4 didn't mark them. I marked them. Thank you. You
5 get -- that's your get out of jail card on that one.
6 That's not a problem.

7 And now he have more markings.

8 (Polson Exhibit Number 3 marked for
9 identification.)

10 CAPTAIN LINLOR: I would like to enter into
11 evidence the TSA submission Bates-Stamped TSA 000025.
12 And this is a statement from Michael G. Polson. Here is
13 the evidentiary copy. It does have markings where
14 one -- where one sentence is marked under blue, one is
15 marked under red, there's brown brackets, and a few
16 sentences marked under green. So it's very colorful.

17 Counsel, here is a copy.

18 BY CAPTAIN LINLOR:

19 Q Mr. Polson, can you read your statement in for
20 the record, please.

21 A The complete statement, sir?

22 Q Yes, sir.

1 A I, Michael G. Polson, am a Transportation
2 Security Officer, TSO, at Dulles International Airport,
3 IAD. On 10 March 2016, I was working a 0600 to 1200
4 hours shift at lane 50/51. At approximately 1140 hours,
5 I was working as a dynamic officer, DO, and responded to
6 a call for male opt out side door. The following
7 narrative is of the incident that followed.

8 I approached the side door and saw a Caucasian
9 male, approximately 40 years old, 6 feet 2 inches tall
10 standing by the divesting belt. I asked him if he had
11 any items in his pockets to ensure he had fully divested
12 and submitted everything for x-ray screening prior to me
13 admitting him to the sterile area.

14 He admitted to having a wallet that he refused
15 to separate with due to it having his federal officer
16 credentials and he wanted to keep them on his person at
17 all times. I explained that his wallet had to be
18 submitted for screening, but he could take his
19 credentials out and keep them in his hand if he wished.
20 He refused, so I called for a lead.

21 LTSO George was the lead from my lane and
22 responded. George explained the same process I did, but

1 he continued to refuse, so George left to notify STSO
2 Bill. At this time, the passenger became frustrated
3 that his property had gone through and he had,
4 quotations, lost effective control of his items, end
5 quotations.

6 While George was talking to Bill, I managed to
7 explain that I would screen his credentials individually
8 if they were removed from the wallet, and the passenger
9 decided to take all items out of his wallet, IDs, credit
10 cards, and cash. And I proceeded to submit his wallet
11 to x-ray screening.

12 Once I was sure he had divested all items, I
13 escorted him through the side door and explained I would
14 be taking his possessions from the x-ray belt to the
15 side table where the pat down would take place.

16 He had six items, and I was working alone, so
17 I made three different trips back and forth. Once all
18 items were on the table by the windows of lane 50/51, I
19 had him stand on the foot mat so he could see his
20 property and began to give his advisements.

21 I had not yet screened his wallet items, so I
22 asked to see them, and he refused until I had changed my

1 gloves. I changed my gloves and then screened his
2 items, noting a Common Access Card, CAC, from the
3 Department of Defense DOD, identifying him as a civilian
4 contractor for the U.S. Navy. No other federal
5 documents were present.

6 I asked if I could place the items on the
7 table behind me after I had done a visual and physical
8 inspection, but he refused and requested he hold them
9 throughout the process.

10 I gave all the items back to him and began his
11 standard pat down advisements, using hand gesture in the
12 air to demonstrate all hand movements required to clear
13 the sensitive areas and inner thigh. During my
14 advisements he identified that he could only raise his
15 arm to 30 degrees but had full capability otherwise. I
16 acknowledged his abilities, and I asked if he had any
17 questions for me. Upon receiving the confirmation that
18 he did not, I began.

19 I started behind him on his collar and then
20 proceeded down his left, followed by his right arm. I
21 then proceeded to clear his back, waistband, buttocks,
22 inner thigh, the back of both legs, and his ankle,

1 slash, heel. I came around the front and advised him to
2 lower his arms and cleared the front of his collar,
3 chest, waistband, groin, front pockets, and right inner
4 thigh.

5 Upon clearing the left inner thigh, I went up
6 to where his leg meets his torso, body resistance as
7 required by SOP, and he jumped backwards off the mat. I
8 do not remember the exact words he stated, but it
9 brought the attention of my supervisor STSO Bill, who
10 had been working 3 feet away, over. Bill asked the
11 passenger what happened, and the man requested police be
12 brought so he could file sexual assault against me.

13 Bill complied and requested MWAA respond to
14 lanes 50/51. Upon hearing the police request over the
15 radio, two transportation security managers, TSM,
16 responded from their nearby offices.

17 The sticker is covering this last sentence
18 here.

19 Q Maybe Mr. Sylvertooth can show you.

20 A They arrived before MWAA and asked the
21 passenger what happened. He explained his side and
22 continued to berate my actions. One of the TSMs

1 requested I leave the area and wait elsewhere to
2 separate the two of us, but the passenger said he wanted
3 to keep me right there so that no sideline conversations
4 could take place.

5 The TSM had me step away around the nearby
6 corner. MWAA arrived around this time and started to
7 question the passenger on his side of the story. They
8 then came over to me, and I explained that I had been
9 completing a check of the inner thigh as required in the
10 SOP.

11 The police and TSM went into the manager's
12 office and reviewed video of the incident.
13 Approximately, three minutes later, they came back out,
14 and one TSM assured me I had done everything per SOP and
15 had nothing to worry about. I was dismissed and clocked
16 out at approximately 1230 hours.

17 End of statement.

18 Q Do you believe that this statement accurately
19 reflects your recollection of that day?

20 A I believe it did. As I recall, I wrote this
21 within days after 10 March, so possibly written on 11 or
22 12 March.

1 Q It doesn't have a date when you wrote this on
2 it; does it?

3 A Not that I see.

4 Q In the earlier exhibit, the Plaintiff's motion
5 to determine spoliation of evidence and appropriate
6 sanctions, on page 29, and -- that's okay. I'll refer
7 to it. I'm referring to it in general, but your counsel
8 can show it to you if you need to.

9 I have the same statement copied in that
10 document along with the verification that was made
11 accompanying it, which your attorney provided. The
12 verification --

13 CAPTAIN LINLOR: This is already in your
14 documents. If you want to find it, Mr. Sylvertooth,
15 it's page 29 or I can -- I can certainly hand Mr. Polson
16 a copy if you would like, whatever is easier.

17 MR. SYLVERTOOTH: He has the exhibit, Exhibit
18 1.

19 CAPTAIN LINLOR: Page 29, then, please.

20 MR. SYLVERTOOTH: 29. But just for the
21 record, this verification came to you on a separate
22 page, not attached to this --

1 CAPTAIN LINLOR: Absolutely. Agree. But it
2 was -- it was immediately following. It was on the
3 subsequent page.

4 MR. SYLVERTOOTH: Yeah. I'm just making the
5 record clear.

6 CAPTAIN LINLOR: So it was -- the verification
7 to the statement.

8 BY CAPTAIN LINLOR:

9 Q Is that correct, Mr. Polson?

10 A I would agree.

11 Q Okay. I want to make sure I'm focusing on the
12 right person here who is under deposition.

13 So on page 29, you recognize the verification.
14 Is that your signature?

15 A It is my signature.

16 Q And what date is on there?

17 A It is dated 11 September 2017.

18 Q On 11 September 2017, were you still employed
19 by TSA?

20 A Negative.

21 Q Whom were you employed by?

22 A I was -- I'm currently employed by the Secret

1 Service. Verifying the years. Sorry.

2 Q So on 11 September 2017, the date of your
3 signature on here, you were employed by the Secret
4 Service; correct?

5 A That is correct.

6 Q Can you read once again the first line of your
7 statement on the other exhibit, not that one, the one to
8 your right. Yes, exactly. The first sentence there,
9 please.

10 A I, Michael G. Polson, am a transportation
11 security officer, TSO, at Dulles International Airport
12 IAD.

13 Q Were you a TSO on 11 September 2017?

14 A I was not.

15 Q Would that be a false statement?

16 A It was not.

17 Q Is there any other date on this statement
18 indicating a different date than 11 September 2017?

19 MR. SYLVERTOOTH: Form.

20 A There are no dates of when I wrote this posted
21 on the statement.

22 BY CAPTAIN LINLOR:

1 Q How do you believe someone is to infer whether
2 you are or are not currently a transportation security
3 officer?

4 A I am not a current TSO.

5 Q How is someone supposed to infer that from
6 your statement here?

7 A By my -- the fact that I'm credentialed with
8 the Secret Service as of my current dates.

9 Q What date is attached to your statement?

10 A 10 March 2016, is the date on this statement.
11 That's the only date I see on the statement.

12 Q What date is attached to your signature that
13 accompanies the statement?

14 A I didn't sign this statement.

15 Q On page 29 is a copy that was of the
16 attestation verification that accompanied the statement
17 as you provided in your disclosures. Do you agree that
18 that is the attestation verification -- title
19 verification, I'm calling it attestation -- that
20 accompanied this -- this declaration of yours?

21 MR. SYLVERTOOTH: Form. For the record, this
22 verification did not attach to his disclosure. You said

1 disclosures. This attached to his interrogatory
2 responses.

3 CAPTAIN LINLOR: Thank you, Counsel.

4 BY CAPTAIN LINLOR:

5 Q Did this -- did this verification snippet that
6 I put in here, was that on the following page from the
7 statement of you, Mr. Polson?

8 A I -- not that I'm aware of. It's on the same
9 page.

10 Q It's on the same page in what I provided in
11 this, but as counsel and I discussed previously, in what
12 was provided by TSA, this was on the subsequent page.

13 My point with this is simply you're stating 11
14 September 2017. For the record, you're stating that you
15 were a transportation security officer with the 11
16 September 2017 date. Do you deny that, Mr. Polson?

17 MR. SYLVERTOOTH: Form.

18 A I deny that I was not a TSO on 11 September
19 2017.

20 BY CAPTAIN LINLOR:

21 Q Do you deny that this is misleading what
22 you -- to have a verification statement on 11 September

1 2017, when the date is actually different?

2 MR. SYLVERTOOTH: Form.

3 A The verification, to my understanding, states
4 simply that this is something that I wrote and I am
5 verifying it under oath.

6 BY CAPTAIN LINLOR:

7 Q You stated before that you believe this
8 statement that you made is accurate and complete; is
9 that correct?

10 A I don't recall making that exact --

11 Q Do you believe that this -- do you believe
12 that this statement that you wrote out is accurate and
13 complete?

14 A I would recall it to be accurate, complete.
15 No, it doesn't list every single thing that happened.
16 As far as I know no statement can.

17 Q What do you believe is not included that would
18 be relevant to make it complete?

19 A I don't have all names or complete names. I
20 don't have the weather outside, other -- the entire
21 situation cannot be taken from this to make a complete
22 situation.

1 Q Do you believe that your statement is -- that
2 does not contain relevant, significant or critical
3 information to the incident?

4 A I would agree.

5 Q Do you believe that the weather outside is
6 critical information to the incident?

7 A I do.

8 Q What was the weather outside?

9 A I don't recall.

10 Q It was critical information as you say;
11 correct?

12 MR. SYLVERTOOTH: Form.

13 A I would agree in my current training that the
14 weather becomes an important factor for all statements.
15 BY CAPTAIN LINLOR:

16 Q How was the weather outside impacting the pat
17 down and alleged Fourth Amendment violation as to force?

18 MR. SYLVERTOOTH: Form.

19 A Any pat down can be affected by the weather
20 simply by the fact that water has an effect on certain
21 types of equipment.

22 BY CAPTAIN LINLOR:

1 Q Were we inside that day?

2 A I recall us being inside that day.

3 Q Were there any leaks in the ceiling?

4 A Not that I was aware of.

5 Q Was there any standing water hanging around?

6 A I don't recall.

7 Q You don't recall?

8 A I don't recall there being any standing water
9 out.

10 Q If there was standing water, wouldn't that be
11 a safety violation?

12 MR. SYLVERTOOTH: Form.

13 A I would assume that that would be a safety
14 violation.

15 BY CAPTAIN LINLOR:

16 Q And it would be your obligation to notify
17 someone if there was standing water; correct?

18 A Small measures, I would actually clean myself.

19 Q Okay. So you're conscientious.

20 So you still believe that the weather is a
21 significant impact on this, on the alleged excessive use
22 of force?

1 MR. SYLVERTOOTH: Form.

2 A On the pat down, I believe weather can become
3 an effect.

4 BY CAPTAIN LINLOR:

5 Q How had weather affected pat downs that you
6 made previously as a TSO?

7 A I'd like to take a break and talk with my --

8 Q Not until after the question --

9 A -- TSA counsel.

10 Q -- is answered. That was one of the rules
11 before, Mr. Polson.

12 A I believe the information that I would give is
13 contrary to what I am allowed and would like to converse
14 with TSO counsel present.

15 Q Sorry, Mr. Polson, you need to answer the
16 question first.

17 MR. BRYANT: Could you repeat the question,
18 please.

19 (Thereupon, the court reporter read back the
20 requested testimony.)

21 MR. BRYANT: So I'll instruct the witness to
22 answer to the extent that you are able without

1 disclosing SSI.

2 A Passengers that would have wet clothing can
3 affect the pat down results.

4 BY CAPTAIN LINLOR:

5 Q We'll follow on afterwards. That's the -- Is
6 there anything else you want to add to that answer?

7 A No.

8 CAPTAIN LINLOR: Do you want to take a
9 five-minute break? Five minutes. We'll reconvene at 10
10 past the hour.

11 THE VIDEOGRAPHER: Going off the record at
12 11:02.

13 (Brief recess held.)

14 THE VIDEOGRAPHER: Back on the record at
15 11:12.

16 CAPTAIN LINLOR: First, court reporter, I was
17 going to ask if you could read back the Defendant's
18 last -- my last question and his last answer, please.

19 (Thereupon, the court reporter read back the
20 requested testimony.)

21 THE WITNESS: For the record, he's not my
22 counsel.

1 COURT REPORTER: Okay. Counsel for TSO.

2 CAPTAIN LINLOR: TSA.

3 COURT REPORTER: TSA, sorry.

4 (Thereupon, the court reporter read back the
5 requested testimony.)

6 BY CAPTAIN LINLOR:

7 Q So Mr. Polson, you said that that was relevant
8 information that was not included in your statement
9 here, relevant information to the -- to your pat down of
10 me on 10 March 2016. In what way did wet clothing on my
11 person impact your procedures on 10 March 2016?

12 A Weather -- my statement had been about weather
13 being an important factor for all statements under my
14 current training with Secret Service. We include
15 weather as an important factor.

16 You had asked about why -- how it could
17 different -- how it could provide a different result for
18 pat downs, and I provided my answer on that, weather
19 became -- relevant to 10 March was not a factor.

20 Q So was weather a factor for 10 March 2016?

21 A I don't recall the weather on that day.

22 Q Do you -- whatever the weather was, how would

1 that have impacted your activities on what I allege was
2 felony sexual battery on 10 March 2016?

3 MR. SYLVERTOOTH: Form.

4 A My activities on 10 March 2016 was a standard
5 pat down. And as my previous statement, weather can
6 affect standard pat downs. That's all my statement was
7 regarding.

8 BY CAPTAIN LINLOR:

9 Q But you said that weather was critical to the
10 events on 10 March 2016, specifically; correct?

11 A I said that the weather on 10 March 2016,
12 would be important to include in any statement
13 regardless of what the day is.

14 Q Did the weather on March 10, 2016, impact the
15 issue at hand of excessive use of force in violation of
16 the Fourth Amendment during your pat down with me?

17 A I do not --

18 MR. SYLVERTOOTH: Form.

19 A I do not recall the weather on 10 March 2016.

20 MR. SYLVERTOOTH: Form.

21 BY CAPTAIN LINLOR:

22 Q That's not the question.

1 CAPTAIN LINLOR: Can you please read back the
2 question.

3 (Thereupon, the court reporter read back the
4 requested testimony.)

5 MR. SYLVERTOOTH: Form.

6 A And I repeat, the weather being the question,
7 I do not recall what it was on that day.

8 BY CAPTAIN LINLOR:

9 Q My question is was there an impact from the
10 weather to your pat down of me on 10 March 2016?

11 MR. SYLVERTOOTH: Form.

12 A I do not recall the weather on 10 March 2016.

13 BY CAPTAIN LINLOR:

14 Q The way we got on this topic in the first
15 place was I was asking you if the statement that you
16 wrote was complete, full, and accurate as a
17 representation of your recollection of events of 10
18 March 2016. And you said, I'm paraphrasing, and please
19 correct me if I am paraphrasing incorrectly -- that you
20 had a number -- there are a number of other factors
21 which could include weather as a factor you did not list
22 in your statement.

1 Were there anything -- was there anything else
2 that you believe that you did not include in your
3 statement that you wanted to bring up to make this as
4 complete as possible?

5 A Something else I had brought up as making a
6 complete statement would be full names. I do not have
7 full names listed, nor do I recall full names of anyone
8 besides Mr. Whetsell, who I referred to as STSO Bill in
9 this statement.

10 Q Do you know your middle name?

11 A I do.

12 Q What is your middle name?

13 A Gerard.

14 Q Is it listed here?

15 A My full middle name is not listed on my
16 statement here.

17 Q You said that -- that's not what you just said
18 previously; correct?

19 MR. SYLVERTOOTH: Form.

20 CAPTAIN LINLOR: Can you read back the
21 witness' previous answer as far as full names.

22 (Thereupon, the court reporter read back the

1 requested testimony.)

2 BY CAPTAIN LINLOR:

3 Q So you do recall your own full name; correct,
4 Mr. Polson?

5 A I do recall my full name.

6 Q So your previous statement was inaccurate;
7 correct?

8 MR. SYLVERTOOTH: Form.

9 A I would correct my previous statement to say
10 that my also full name -- to be identifiable as me,
11 it's -- I'm the only Michael G. Polson in TSA.

12 BY CAPTAIN LINLOR:

13 Q Why would you not have included your middle
14 name?

15 A At the time of this statement, I identified
16 myself fully to the point that if you -- if a person was
17 searching for a TSO at Dulles Airport, I was the only
18 result.

19 Q Under that same logic, on the previous
20 evidence submitted from the statement from Mr. Whetsell,
21 do you believe that there was more than one Captain
22 James Linlor at the checkpoint at TSA on 10 March 2016?

1 MR. SILVERTOOTH: Form.

2 A I could not speculate on any passengers.

3 BY CAPTAIN LINLOR:

4 Q Do you believe that my name is a common name?

5 A I do believe James to be a common name.

6 Q Do you believe my full name to be a common
7 name?

8 A I don't know your full name, sir.

9 Q You know it as Captain James -- well, let me
10 help you out with that. On Mr. Whetsell's statement,
11 line three, as a passenger listed there, what is the
12 name listed there? It's underlined in red.

13 A I'm sorry, re-reading Mr. Whetsell's
14 statement?

15 Q Yes. Underlined in red, what is the name?

16 A James Daniel Linlor.

17 Q So you don't believe that to be my full name?

18 A Is that your full name, sir?

19 Q It is my full name. You said that you
20 didn't -- you weren't aware of my full name?

21 A No. I'm aware of your full name, sir.

22 Q So you believe full names are important in

1 identifying people; correct?

2 A Negative. That is not what I said.

3 Q I'm asking you a general question, not if
4 that's what you said.

5 A I do not believe full names are required to
6 identify a person.

7 Q Are they important? I didn't ask required, I
8 said important.

9 MR. SYLVERTOOTH: Form.

10 A Is it important -- I'm sorry, repeat your
11 question that you would like to have asked.

12 CAPTAIN LINLOR: Please.

13 (Thereupon, the court reporter read back the
14 requested testimony.)

15 A Is a full name important to identify a person?

16 BY CAPTAIN LINLOR:

17 Q That's my question.

18 MR. SYLVERTOOTH: Form.

19 A No.

20 BY CAPTAIN LINLOR:

21 Q On your statement, you -- in the second
22 paragraph, there is a sentence starting with, I had him

1 stand. Could you -- it's the fourth line of the third
2 paragraph. It should be underlined in blue.

3 A This question?

4 Q Yes. Could you -- could you read that,
5 please?

6 A You want the full sentence or just that
7 underlined?

8 Q Just the underlined part.

9 A I had him stand on the floor mat.

10 Q So you have -- I think it's fairly well known
11 by anyone who has traveled by air, you being the TSA,
12 your employer, has floor mats that are at the pat down
13 areas; is that correct?

14 A That is correct.

15 MR. SYLVERTOOTH: Form.

16 BY CAPTAIN LINLOR:

17 Q And are -- what are on those floor mats? And
18 I'm not asking about dirt, Mr. Polson.

19 A I understand the question.

20 Q I'm asking about what markings. They're
21 stepped on probably by 10 million people, so I'm sure
22 there is dirt.

1 A As I recall, the floor mat is dark in color
2 with a yellow border outline, and it has two universal
3 footprints, meaning they don't have a front and back to
4 the footprint. It's universal in both aspects. You can
5 face either way on the mat.

6 Q Why are there footprints on the floor mat?

7 MR. SYLVERTOOTH: Form.

8 A To show that's the mat you stand on.

9 BY CAPTAIN LINLOR:

10 Q Is there any reasoning behind the arrangement
11 of the footprints on the floor mat that you are aware
12 of?

13 MR. SYLVERTOOTH: Form.

14 A Not to my knowledge.

15 BY CAPTAIN LINLOR:

16 Q Mr. Polson, do you know who Kip Hawley is?

17 A I do not.

18 Q You've never heard the name Kip Hawley?

19 A Kip Hawley, at this moment I do not recognize
20 the name.

21 Q Kip Hawley is the former administrator of the
22 TSA.

1 A Okay.

2 Q Kip Hawley made the statement that the
3 positioning of the feet on the floor mats was for
4 optimal -- that was his choice of words -- optimal
5 placement of passengers' feet for pat downs. Do you --
6 what is your understanding of the word "optimal"?

7 A Optimal meaning the most average for all
8 passenger sizes.

9 Q In general, in lexicon -- and if we want
10 there's a dictionary in the bookshelf behind you, which
11 I can get if it helps, not with no disparity intended.
12 But what does "optimal" mean to you? Does it -- did you
13 say it means average or what do you think it means?

14 A I would say it's average, meaning it will
15 provide a suitable -- suitability for the most amount of
16 people, most efficient.

17 CAPTAIN LINLOR: Mr. Smith, can you get the
18 dictionary for --

19 COURT REPORTER: Do you want me to get it?

20 CAPTAIN LINLOR: Please, yes.

21 I would like my assistant to go look up the
22 word "optimal" while we're -- while we're -- okay. And

1 it's something else for him to do, have him go and look
2 it up. We'll come back to that.

3 BY CAPTAIN LINLOR:

4 Q So you had -- it says, I had him stand on the
5 floor mat.

6 CAPTAIN LINLOR: Sorry, let me know when
7 you're ready. I apologize.

8 COURT REPORTER: It's okay. Go ahead.

9 BY CAPTAIN LINLOR:

10 Q I had him stand on the floor mat. And we'll
11 figure out as far as optimal or not. But was I -- did I
12 stand on the footprints on the floor mat to the best of
13 your recollection?

14 A You -- for the pat down itself or when you
15 initially approached the mat?

16 Q For the pat down itself. I think that they
17 were the same -- or were they different?

18 A They were.

19 Q Okay. Did -- did I step onto the footprints
20 without being guided?

21 MR. SYLVERTOOTH: Form.

22 A I don't recall where you stood initially. My

1 statement previously was to say that you varied your
2 footprints during the entire pat down. And I do that
3 for every passenger based on what I'm able to screen at
4 that moment.

5 BY CAPTAIN LINLOR:

6 Q Can you explain what you just said because I'm
7 not sure that I understand your answer.

8 A Again, the ability for me to properly follow
9 SOP and clear a passenger to the best of my abilities.
10 Some passengers need a wider stance than others based on
11 what I can differentiate between the difference -- the
12 resistance between their leg and torso.

13 CAPTAIN LINLOR: Mr. Smith, did you find the
14 definition of the word "optimal"?

15 MR. SMITH: Yes.

16 CAPTAIN LINLOR: Let me read that. Where is
17 it here?

18 MR. SMITH: About halfway down this page.

19 MR. BRYANT: Captain Linlor, can we take just
20 a 60-second break? We may have some materials being
21 delivered.

22 CAPTAIN LINLOR: If you would --

1 MR. BRYANT: Can we go off the record for just
2 a moment?

3 CAPTAIN LINLOR: No. We're going to continue,
4 but you can take a break. You can go off -- you can go
5 anywhere you want, but we're going to keep going here.

6 Let me find optimal.

7 BY CAPTAIN LINLOR:

8 Q Optimal, okay. So the definition, per
9 whatever dictionary, The American Heritage Dictionary of
10 the English Language. I'm not sure if these things
11 change very often. I don't see a revision date on it.
12 Optimal is defined by the dictionary as most favorable
13 or desirable, semi colon, optimum. Well, that's
14 helpful.

15 But most favorable or desirable. Do those
16 words make sense to you, Mr. Polson?

17 A I do understand the definition given.

18 Q Does that change -- does that definition
19 change your previous understanding of the word optimal
20 as not being average?

21 A I would say it's the most efficient, which is
22 different in semantics than average.

1 Q So it is a different -- so you would revise
2 your definition based upon what the dictionary says?

3 A I would revise it to being the most efficient.

4 Q Okay. And as I stated before, referencing
5 evidence from Mr. Kip Hawley, the previous TSA
6 administrator, the placement of the footprints on the
7 mat, he defines as being optimal, so that passengers
8 would know how far apart to put their feet for pat
9 downs.

10 In your experience, do you often change
11 passengers' feet from what TSA guidance therefore shows
12 as optimal?

13 MR. SYLVERTOOTH: Form.

14 A I would disagree with your statement. It is
15 not guidance.

16 BY CAPTAIN LINLOR:

17 Q Do you believe that Mr. Kip Hawley's statement
18 that the footprint placement is optimal is accurate?

19 A I would not.

20 MR. SYLVERTOOTH: Form.

21 BY CAPTAIN LINLOR:

22 Q Do you believe that the TSA administrator,

1 whomever that person might be, has information -- has
2 information available to him or her that might be
3 broader than your knowledge?

4 A I am sure that he has access to more
5 information than I do.

6 Q Do you think that his statement of it being
7 the optimal placement of footprints would be inaccurate?

8 A I would.

9 Q And why do you think you -- why do you think
10 your answer that the optimal -- that the optimal
11 placement of -- that those are not the optimal placement
12 of footprints when he says they are, why do you think
13 you're right and he's wrong?

14 MR. SYLVERTOOTH: Form.

15 A In my opinion, there is no right versus wrong.
16 It's simply he works behind a desk using information
17 given to him in words and data versus me being the
18 operational officer on the floor.

19 BY CAPTAIN LINLOR:

20 Q So you don't think that his statement was
21 based upon operational data?

22 A I don't have any idea what his statement was

1 based on.

2 Q I'm asking opinion, not to say that you would
3 know. What do you think -- because you said that he
4 would sit behind a desk and you are on the front line,
5 so to speak. So do you believe that your knowledge is
6 better than his?

7 MR. SYLVERTOOTH: Form.

8 A I believe that he has more access to knowledge
9 than I do.

10 BY CAPTAIN LINLOR:

11 Q Do you believe that -- you said that his --
12 you believe his statement that it being optimal spacing
13 of footprints to not be optimal; is that correct?

14 A I believe, in my opinion, that those
15 footprints are not optimal.

16 Q And on March 10th, 2016, did I stand on those
17 footprints initially?

18 A I do not recall.

19 Q Did you ask me to widen my stance?

20 A I did.

21 Q Why did you ask me to widen my stance?

22 A I asked you to widen your stance because in

1 order for me to properly screen your inner thigh area as
2 required by SOP, I needed you to have a wider foot
3 stance than you currently did at that time.

4 Q And what was that based on?

5 A My ability to screen you appropriately per
6 SOP.

7 Q How does SOP -- what does SOP guidance say
8 about widening stances?

9 A We can widen the stance as necessary to
10 provide adequate clearance between the inner thigh and
11 the torso area, resistance being the definitive request
12 that we're looking for.

13 Q The "definitive request that we're looking
14 for," could you explain that, please?

15 A One hand on your inner thigh, one hand on your
16 hip, all the way up until I meet resistance between your
17 thigh and torso, and then back down the rest of your
18 leg. If I cannot go up until I meet resistance between
19 your actual thigh and torso, if for instance it catches
20 on clothing, if your pants are hanging too low, baggy
21 clothing, any -- all sorts of matter. It's based on
22 situational in that instant what you need to have to

1 properly screen that passenger.

2 Q Would you define the connection between the
3 thigh and torso as the groin?

4 A I would not.

5 Q What are you -- what part of the body do you
6 define it as then?

7 A Again, you have the groin being the general
8 region, and you have the inner thigh basically where the
9 groin is part of that area, between the thigh and the
10 torso; torso being above the groin and thigh being below
11 the groin.

12 Q So how could your hand be pushed until it
13 reaches the torso if you would have to -- how do you
14 do -- how do you touch the torso if there's a body mass
15 in the way?

16 MR. SYLVERTOOTH: Form.

17 A I believe we're being caught up on semantics
18 here of the anatomy of a male person.

19 BY CAPTAIN LINLOR:

20 Q Our earlier agreement was to discuss the
21 thigh, groin, and testicles.

22 A As the sensitive area.

1 Q As the sensitive areas?

2 A That is correct.

3 Q So when you're referring to torso, this
4 becomes an issue because medically, anatomically
5 speaking, most definitions of torso seem to be higher
6 based upon evidence. But do you agree to that?

7 MR. SYLVERTOOTH: Form.

8 A On the anatomy, I would define the torso as
9 the main parts of the body or exceeding the extremities
10 being your arms and legs.

11 BY CAPTAIN LINLOR:

12 Q So explain to me again how -- how you do the
13 pat down of the thigh, groin, and genitals. How do you
14 that? What is the procedure?

15 MR. BRYANT: I'll caution the witness not to
16 disclose any SSI in the answer.

17 A Prior to the pat down, you receive a hands-off
18 demonstration of how exactly you'll be screened in both
19 the groin, the buttocks, and the inner thigh. The
20 screening on the inner thigh includes putting one hand
21 on your inner high, one hand on your hip. You slide all
22 the way up until you meet resistance between the leg and

1 the torso and then down the rest of the leg. Groin is
2 going to be screened with the back of my hand in a
3 sliding motion, fingertips 1 inch apart from each other
4 straight down the zipper line.

5 The buttocks is going to be with my -- back of
6 my hand, in a sliding motion, fingertips touching
7 straight up and down, waistband down around the butt.

8 Q So you believe that you are raising your hand
9 up -- sliding your hand up along the thigh until you
10 reach the groin, testicle, and until you meet resistance
11 including from the torso; correct?

12 MR. SYLVERTOOTH: Form.

13 A The resistance is felt between the leg and
14 torso.

15 BY CAPTAIN LINLOR:

16 Q How much resistance do you usually push -- how
17 far do you push or how much force do you use until you
18 meet resistance?

19 A The force varies based on my ability to
20 determine what is the difference between the clothing
21 and the skin.

22 Q And I believe you said before that there is no

1 scientific measurement of that force?

2 A To my knowledge, there is not. Because it
3 varies, there is no definition to it.

4 Q How -- are there different aspects to a
5 sliding motion in general in your opinion?

6 MR. SYLVERTOOTH: Form.

7 A I don't understand the question.

8 BY CAPTAIN LINLOR:

9 Q When you -- if we took a car analogy, you
10 start a car, you move a car, you stop a car. Is that
11 what you would agree that's standard kind of typical
12 activities?

13 A If I'm -- I'm not sure I follow the complete
14 analogy, but if you continue --

15 Q I'll make the analogy clearer.

16 A If you continue, I'll try to understand.

17 Q But I wanted to establish that we have a
18 start --

19 MR. SYLVERTOOTH: Make sure you allow him to
20 answer his question. Don't talk over him.

21 THE WITNESS: Sorry.

22 BY CAPTAIN LINLOR:

1 Q We start a car, we -- the car moves in some
2 direction, and we stop a car. The analogy is there
3 are -- there is pressure force used inward towards the
4 thigh, and there is also a pressure involved in
5 resistance felt at the groin and testicles. Would you
6 agree?

7 MR. SYLVERTOOTH: Form.

8 A So I'm still trying to complete this analogy
9 you brought up. Do you mean there's pressure in and
10 there's pressure up; correct?

11 BY CAPTAIN LINLOR:

12 Q There's pressure in and there's pressure up.
13 Do you -- do you agree with that idea?

14 A I would agree with every object stays in
15 motion until acted upon by imposing an equal force. I
16 mean, that seems to be the scientific explanation of
17 that.

18 Q So the analogy comes into play that a car can
19 have a force not just pushing it along, but also an
20 impact force if it runs into an object. Do you agree
21 with that statement?

22 A I would agree.

1 Q So is there a potential impact force when your
2 hand is meeting resistance with a passenger's groin and
3 genitals as part of the pat down of that sensitive area?

4 A There is the sensation of you being able to
5 tell the difference between the thigh and the torso as
6 you slide up.

7 Q Is there -- you said there's a sensation, but
8 is there an impact force?

9 MR. SYLVERTOOTH: Form.

10 A What force are you -- I don't understand.

11 BY CAPTAIN LINLOR:

12 Q The same as I -- the analogy would be with a
13 car running into an object and there is an impact, a
14 striking force. Is there a striking force involved when
15 patting down a passenger's groin and testicles as you
16 slide your hand out from the thigh?

17 MR. SYLVERTOOTH: Form.

18 CAPTAIN LINLOR: What part of the form,
19 Counsel, so I can try to correct it?

20 MR. SYLVERTOOTH: You are -- first of all, you
21 have not defined what you determine to be striking.
22 That's what you used in your question, so it's not

1 clear.

2 CAPTAIN LINLOR: If you -- if you will help me
3 with --

4 MR. SYLVERTOOTH: I'm not going to help you.
5 I'm not here to help you.

6 CAPTAIN LINLOR: I know you're not here to
7 help me, but if your -- but your objection to form, in
8 some districts, would not be accepted because you're not
9 defining form. So I'm not here to help you either, but
10 we are -- hopefully, we're going to work together, that
11 I'll correct my question if you explain what your
12 objection is.

13 MR. SYLVERTOOTH: Yes. But I want to also
14 make clear, in this district we use form or else it's
15 seen as a way to coach the witness. So that's why we
16 use form.

17 CAPTAIN LINLOR: Fine.

18 MR. SYLVERTOOTH: So if you want
19 clarification, you need to ask for it, and I'm willing
20 to give it to you. We'll work that way.

21 CAPTAIN LINLOR: We'll work this out. I'm not
22 trying to ignore you --

1 MR. SYLVERTOOTH: No. No.

2 CAPTAIN LINLOR: -- but at the same time, we
3 have to, you know -- there's differences of opinion.

4 MR. SYLVERTOOTH: I'm with you 100 percent.

5 BY CAPTAIN LINLOR: So definition of striking,
6 so let's get that out of the way, so then hopefully you
7 can get a non objected to question for a change.

8 BY CAPTAIN LINLOR:

9 Q Striking in this case would be defined as used
10 by me in the question as the force of one object coming
11 in contact with another.

12 CAPTAIN LINLOR: Counsel is rolling his eyes,
13 perhaps he may be able to work with this. We'll see.

14 BY CAPTAIN LINLOR:

15 Q So based on that definition, is there a
16 striking force of one object coming in contact with
17 another as you slide your hand up from the thigh to the
18 groin and genitals?

19 A I would agree there is.

20 Q Okay. Based upon the definition, what amount
21 of striking force is reasonable?

22 A Only enough to properly ascertain that the

1 area is clear for SOP.

2 Q Does SOP define a reasonable amount of
3 striking force in this situation?

4 A Not to my knowledge.

5 Q How do you know what a reasonable amount of
6 striking force is if it's not defined?

7 A When I can tell the difference between the leg
8 and the torso.

9 Q Isn't it possible that the striking force
10 could injure a passenger?

11 A By your definition of striking --

12 MR. SYLVERTOOTH: Form.

13 A By your definition of striking force being any
14 contact period between two different things, there are
15 all sorts of things that can be considered excessive to
16 that fact.

17 BY CAPTAIN LINLOR:

18 Q Does your answer mean yes?

19 A I can't answer that. It's too generic of a
20 question.

21 CAPTAIN LINLOR: Could you please read back
22 the question for the witness?

1 (Thereupon, the court reporter read back the
2 requested testimony.)

3 A Yes.

4 BY CAPTAIN LINLOR:

5 Q Have you ever heard of such a striking force
6 injuring a passenger?

7 A I have not.

8 Q Have you ever been guided by TSA to be careful
9 not to use excessive striking force as it has been
10 defined?

11 A I don't recall.

12 Q Would that topic -- should that topic have
13 been discussed to your belief in your training as a TSO?

14 MR. SYLVERTOOTH: Form.

15 A I wasn't in charge of any of the training
16 programs or what needed to be taught or whatnot. If I
17 came in with an empty slate, it's because I didn't know
18 what needed to be taught previously.

19 CAPTAIN LINLOR: Counsel, what part of form
20 did you object to?

21 MR. SYLVERTOOTH: I'm objecting to the fact
22 that you're asking him to speculate.

1 CAPTAIN LINLOR: I was asking for an opinion.
2 We understand. I didn't think I had not defined
3 anything. There was nothing left to not be defined. I
4 just wanted to make sure.

5 BY CAPTAIN LINLOR:

6 Q Did I give any indication on 10 March 2016,
7 that you may have used excessive force in striking me as
8 we have defined it?

9 A I would disagree, no.

10 Q Does that include the definitions you
11 previously gave -- or the indications you previously
12 listed as potentially being -- reflecting excessive
13 force?

14 A I denied your previous question because as I
15 was sliding down your leg is when you jumped off the mat
16 providing an indication of any excessive force. So
17 there was no striking force applied at that time.

18 Q You said before that the -- you alleged that I
19 jumped off the mat after you had cleared the -- my leg,
20 and we were finished with that; is that correct?

21 A No.

22 Q What did you say?

1 A I -- if I recall correctly -- I'm going to
2 paraphrase here because I'm not going to ask her to go
3 all the way back. I slid up, and as I was coming down
4 the rest of your leg is when you jumped off the mat. I
5 had not finished clearing your leg.

6 Q Could you read the sentence in your statement,
7 in the last paragraph -- it's not underlined, sorry --
8 starting with "upon," and just read that one sentence.
9 It starts with "upon clearing."

10 MR. SYLVERTOOTH: Clarification, last
11 paragraph is on the second page. Are you on the first
12 or second?

13 CAPTAIN LINLOR: I'm on the first page.

14 MR. SYLVERTOOTH: I'm sorry.

15 CAPTAIN LINLOR: No, it's okay. The document
16 is TSA 000025.

17 A I'm with you.

18 Upon clearing the left inner thigh, I went up
19 to where his leg meets his torso, body resistance as
20 required by SOP, and he jumped backwards off the mat.

21 Do you want me to keep reading?

22 BY CAPTAIN LINLOR:

1 Q No. Thank you.

2 It sounds from this -- from what you wrote
3 here is that it reads, up to where his leg meets his
4 torso, body meets resistance as required by SOP, and he
5 jumped backwards off the mat, not that there was an
6 additional clearing to the leg afterwards as you just
7 stated a minute ago.

8 MR. SYLVERTOOTH: Form.

9 BY CAPTAIN LINLOR:

10 Q Do you agree that the two are different?

11 A I would revise this written statement to say
12 that I had also been proceeding down your leg.

13 Q So you believe that this written statement is
14 inaccurate?

15 A I do not. I believe it to be accurate to the
16 point that it's still written. I would simply revise
17 that portion at least to state that I had gone up and
18 then down your leg.

19 Q Did you previously file this statement as
20 being accurate?

21 A Probably on whatever date you see written, on
22 that day I believed it to be truthful, and I was willing

1 to swear to it under oath.

2 Q So you did swear to the statement under oath?

3 A On that day in question.

4 Q And --

5 A Referring to page 29 -- 29, I verify under
6 oath.

7 MR. SYLVERTOOTH: For the record, that's page
8 29 of Exhibit 1.

9 CAPTAIN LINLOR: Thank you, Counsel.

10 BY CAPTAIN LINLOR:

11 Q So now you're saying that what you submitted
12 under oath was inaccurate; is that correct?

13 MR. SYLVERTOOTH: Form.

14 A It was to the best of my abilities.

15 BY CAPTAIN LINLOR:

16 Q Isn't that -- isn't the difference that the
17 change you're looking to make a significant change in
18 your opinion?

19 A I don't see it as significant, no.

20 Q You had earlier stated that you felt you were
21 free to leave after you had stepped around a corner, and
22 so there -- and as a result, you did not believe that

1 you were under a citizen's arrest; is that correct?

2 A I did not say I was free to leave.

3 Q So you believed that you were not free to
4 leave, that you were still confined and not -- your
5 freedom was still impeded when you stepped around the
6 corner?

7 A My freedom was impeded to Dulles Airport in
8 general so that I could file my paperwork for the
9 overtime.

10 Q Did you believe that your freedom was impeded
11 from having been allegedly placed under citizen's arrest
12 and a crime being investigated by MWAA P.D.?

13 MR. SYLVERTOOTH: Form.

14 A I did not.

15 BY CAPTAIN LINLOR:

16 Q Did you believe that MWAA P.D. was going to
17 still come and speak to you after you went around the
18 corner?

19 A I did not know what they would be doing.

20 Q Did they come and speak to you after you went
21 around the corner?

22 A I don't recall them coming to me after the

1 corner.

2 Q Can I direct you to the page TSA triple --
3 000026? And this -- the line that starts -- well, let's
4 just start with "he explained," and just read to the end
5 of the paragraph, please.

6 A He explained the sliding and continued to
7 berate my actions. One of the TSMs requested I leave
8 the area and wait elsewhere to separate the two of us,
9 but the passenger said he wanted to keep me right there
10 so that no -- quotations, no sideline conversations
11 could take place, end quotations. The TSM had me step
12 away around a nearby corner. MWAA arrived around this
13 time and started to question the passenger on his side
14 of the story.

15 He then came over to me, and I explained that
16 I had been completing a check of the inner thigh as
17 required in the SOP. The police and TSMs went into the
18 manager's office and reviewed video of the incident.
19 Approximately three minutes later, they came back out,
20 and one TSM assured me I had done everything per SOP and
21 had nothing to worry about. I was dismissed and clocked
22 out at approximately 1230 hours.

1 Q How many TSMs -- how many TSMs responded to
2 this incident?

3 A I recall three, I believe.

4 Q Do you remember their names?

5 A I do not; however, we previously read a
6 statement that I believe listed a couple of them.

7 Q Do you remember more than three TSMs?

8 A I do not.

9 Q So it would be one of the three TSMs, maximum
10 number of three, that would have responded, that would
11 have been the person you're referring to here saying,
12 that the TSM assured me that I had done everything per
13 SOP. Is that correct?

14 A One of those TSMs is the one that approached
15 me, yes.

16 Q Would that have been a male or a female?

17 A I described him earlier.

18 Q It was a male?

19 A It was a male.

20 Q That's what I wanted. The question was male
21 or female.

22 So it was a male. And what color hair did he

1 have?

2 A Dark.

3 Q Black? Brown?

4 A Dark.

5 Q Dark hair?

6 A That's all I recall.

7 Q Okay. You said earlier that you did not speak
8 with a TSA after you went around the corner?

9 MR. SYLVERTOOTH: Form.

10 CAPTAIN LINLOR: What is the question,
11 Counsel?

12 MR. SYLVERTOOTH: That's a miscalculation of
13 what -- you said he said he did not speak to TSA.
14 That's not what he testified to.

15 CAPTAIN LINLOR: Did I say TSA? I meant MWAA.

16 MR. SYLVERTOOTH: You did.

17 CAPTAIN LINLOR: I'm sorry. That was a slip
18 of the tongue. I'm glad I asked. I meant MWAA.

19 BY CAPTAIN LINLOR:

20 Q I retract and apologize.

21 You said earlier that you did not speak with
22 MWAA after you went around the corner. Was that

1 correct?

2 A I said I did not recall if I had. And after
3 reading this statement, I would redact that and say that
4 according to this they had come around the corner to get
5 my point of view as well.

6 Q So what you're saying is your statement here
7 is -- you're saying the statement here is correct and
8 what you just said was wrong or the other way around?

9 A The statement is what refreshed my memory to
10 then recall that MWAA had arrived, and they spoke to you
11 first and then to me.

12 Q So would that have meant that you were not
13 free to go because MWAA was still speaking to you?

14 A I would believe that if I had police in front
15 of me I would not feel free to go.

16 Q So would that imply that if you were not free
17 to go, isn't that one of the definitions or one of the
18 constraints that you gave earlier as one of the key
19 factors to being under arrest?

20 A It's also a key factor for being detained,
21 which is not under arrest.

22 Q Did you feel that you were detained?

1 A At that moment I felt detained by the police.

2 Q What gave you the indication that you were
3 detained?

4 A The fact that they were questioning me from my
5 point of view.

6 Q You listed here the one TSM -- next to the
7 last line, the one TSM assured me I had done everything
8 per SOP. But you weren't sure which TSM. Do you know
9 why he -- we defined it was a he -- why he said that you
10 had done everything per SOP?

11 MR. SYLVERTOOTH: Form.

12 A Why he -- well --

13 BY CAPTAIN LINLOR:

14 Q I'm looking for you to explain your -- your
15 earlier statement here.

16 A Certainly.

17 Q It says: One TSM assured me I had done
18 everything per SOP.

19 A Okay.

20 Q How would that person know?

21 A Transportation security managers often come
22 from the bottom of the ranks, meaning they worked their

1 way up, meaning from my position as a TSO, to an LTSO,
2 STSO, and then it follows into being a manager.

3 So this manager, I recall, had been working
4 his way up. He didn't jump into his position from
5 outside of the agency in any capacity. So he did know
6 SOP as per his job requirements, if I recall.

7 And then he was also in the office with the
8 police, as stated previously, that police and TSMs went
9 into the manager's office and reviewed the video of the
10 incident.

11 So to my knowledge, he had seen the video and
12 he came out and said that according to what he had seen,
13 I had done everything correctly per the SOP.

14 Q But was he a witness to the incident?

15 MR. SYLVERTOOTH: Form.

16 BY CAPTAIN LINLOR:

17 Q Was he --

18 CAPTAIN LINLOR: Just to clarify, what part of
19 form?

20 MR. SYLVERTOOTH: You're asking him to
21 speculate again.

22 CAPTAIN LINLOR: No. Actually, this is not

1 speculating. He previously listed a number of people
2 that were listed as being present, and in Mr. Polson's
3 statement there were no other witnesses present.

4 BY CAPTAIN LINLOR:

5 Q Were the -- were the TSMs present as
6 witnesses?

7 A To my knowledge, they were not present at the
8 time of our pat down. If I recall correctly, according
9 to the statement, they came out of their office after
10 the police had been called on the radio.

11 CAPTAIN LINLOR: I don't think that there was
12 a form -- proper form objection there, Counsel.

13 MR. SYLVERTOOTH: Now that you clarified it,
14 there isn't. You didn't say present. You said witness.
15 They could have witnessed it with the camera.

16 A They do have cameras within their office, sir,
17 to my knowledge.

18 BY CAPTAIN LINLOR:

19 Q Are those cameras ever recorded?

20 A I don't -- I would assume that's the same
21 cameras that they would have seen previously with the
22 police, but that's only an assumption because I did not

1 follow them in there.

2 Q Would -- but if those are recorded, then those
3 would be more of a -- more potential recordings;
4 correct?

5 A I can't -- I don't know how many cameras there
6 are.

7 Q I didn't ask you how many cameras, Mr. Polson.
8 If there were more recordings, those recordings could
9 also have been retained; correct?

10 A I don't know.

11 Q Can cameras -- can camera recordings be
12 retained?

13 A Yes.

14 Q If there were additional camera recordings,
15 could they have been retained?

16 A I don't know. I wasn't there.

17 Q Let's try this one more time. Can camera
18 recordings be retained?

19 A Yes.

20 Q Do you have any reason to believe that the
21 camera recordings in the manager's -- TSM's offices
22 could not have been retained?

1 A I have no reason --

2 MR. SYLVERTOOTH: Form.

3 A I have no reason to believe so.

4 BY CAPTAIN LINLOR:

5 Q Do you believe that the video cameras
6 recordings in the TSM's offices on this date and time
7 could have been retained if someone wanted to retain
8 them?

9 MR. SYLVERTOOTH: Form.

10 A I don't know what capacities they have within
11 their office, sir. I don't know if they have the
12 ability of the recording or if it's just a visual
13 monitor to see.

14 CAPTAIN LINLOR: Could you read back my
15 question, please.

16 (Thereupon, the court reporter read back the
17 requested testimony.)

18 BY CAPTAIN LINLOR:

19 Q The question was about video recordings, if
20 such video recordings existed could be retained. If
21 such video recordings existed, do you believe that they
22 could have been retained?

1 A I don't know if they had the capability within
2 their office to do so, is my answer.

3 Q Did you attempt to ask anyone if they had any
4 recordings that could be retained?

5 A At which point, sir?

6 Q At any point at this incident or after.

7 A At this incident, no.

8 Q At this incident or after?

9 A I believe there was a request for video made.
10 I don't know who made that request.

11 Q Did you, as the Defendant, ever make any
12 request to anyone to retain video evidence or any other
13 evidence in this case?

14 A I don't recall.

15 Q Do you have any documentation showing that you
16 made any request to retain evidence?

17 A I do not have any documentation in front of me
18 of that.

19 Q Who was -- who operated those cameras that
20 were the security cameras at the TSA checkpoint?

21 A To my knowledge, TSA operates those security
22 cameras along with MWAA.

1 Q Okay. This is two people, but, you know, you
2 can only have so many masters. How many -- how
3 many -- who -- which organization is ultimately
4 responsible for operating the security cameras?

5 A I don't have any knowledge of the camera
6 program at Dulles Airport.

7 Q Did you ask anyone whom you would ask to how
8 any video is retained?

9 A I don't recall.

10 Q You don't recall if you asked anyone?

11 A As you said, on that day I didn't, but in the
12 future there was a request made. Whether I did it or
13 not, I don't recall.

14 Q If you had made a request, whom would you have
15 made it to?

16 A I wouldn't have made it. I would have gone
17 through my legal counsel.

18 Q And did you ask your legal counsel to retain
19 any videos?

20 MR. SYLVERTOOTH: I'm going to instruct the
21 witness not to answer.

22 CAPTAIN LINLOR: I'm not asking what the

1 counsel advised him, but as far as if it's not listed in
2 your protection log -- privilege log.

3 MR. SYLVERTOOTH: Well, to answer that
4 question would divulge privileged information if it
5 occurred. But the rules of attorney/client privilege is
6 not just about the advice that a client -- an attorney
7 has given. It is also the conversation between the
8 client and the attorney so that the attorney can advise.

9 So to the extent you're asking him any
10 question in regards to his answers or questions to his
11 attorneys, he is not to answer the question.

12 BY CAPTAIN LINLOR:

13 Q Do you -- and are -- based on that statement
14 from your Counsel, are you refusing to answer that
15 question?

16 A I can't answer that question.

17 Q Are you refusing to answer the question based
18 on the advice of your attorney?

19 A I can't answer that question.

20 MR. SYLVERTOOTH: Let me make sure I -- let me
21 clarify. He's thinking you're asking him to answer the
22 question that I told him not to.

1 CAPTAIN LINLOR: No. No.

2 THE WITNESS: I'm sorry.

3 MR. SYLVERTOOTH: He's asking, are you taking
4 the advice right now that I'm giving you to not answer
5 his previous question.

6 A I am taking my Counsel's advice to not
7 speak --

8 CAPTAIN LINLOR: Thank you, Counsel.

9 MR. SYLVERTOOTH: Sorry.

10 BY CAPTAIN LINLOR:

11 Q Are you asserting privilege? And so you are
12 asserting privilege?

13 A I am.

14 Q Thank you. That's what --

15 A Sorry. It was a big go-around.

16 Q Yes. That was -- that was getting painful.

17 CAPTAIN LINLOR: Thank you very much for
18 stopping that.

19 THE WITNESS: It's getting very warm in here.
20 Is there an AC that we can kick on?

21 CAPTAIN LINLOR: It's behind the TSA counsel.
22 It doesn't need to be 73. Thank you.

1 BY CAPTAIN LINLOR:

2 Q So have we established, Mr. Polson, that a
3 request was made for you to be placed under citizen's
4 arrest or do you think that that was still perspective?

5 A I still believe I was not under any citizen's
6 arrest.

7 CAPTAIN LINLOR: Is the AC too loud for the
8 video?

9 THE VIDEOGRAPHER: No.

10 BY CAPTAIN LINLOR:

11 Q Do you still hold, Mr. Polson, that there were
12 no requests in front of you to retain any videos that
13 you are aware?

14 A I do not recall any requests.

15 CAPTAIN LINLOR: Next into evidence I'd like
16 to submit a statement from Scott Johnson, which TSA
17 already submitted as TSA 000017 and TSA 000018.

18 (Polson Exhibit Number 4 marked for
19 identification.)

20 CAPTAIN LINLOR: I will note for the record
21 that this is a very colorful sheet. There are brackets
22 in most every paragraph in a variety of colors. And

1 that's only on page TSA 000017.

2 BY CAPTAIN LINLOR:

3 Q Mr. Polson, I'd like you to read this
4 statement, just the first page is fine, but to note that
5 it is a statement signed by Scott Johnson, dated 14
6 March 2016. If you can read the first full page,
7 please.

8 A This is the first time I'm seeing this
9 statement. I haven't seen it previously.

10 At approximately 1100, on Thursday, March 10,
11 2016, I received a text message on a passenger at lanes
12 50/51, who claims that a TSA agent sexually assaulted
13 him, with Metropolitan Washington Airport Authority
14 Police en route. When I arrived I noticed -- when I
15 arrived I noticed an individual standing by himself with
16 three MWAA police officers around him, in addition to
17 the TSA Supervisor William Whetsell. I stood back from
18 any conversation, but noticed that the passenger was
19 upset and was demanding the names of everyone around
20 him, asking for calling cards from the police officers
21 and from the TSA supervisor.

22 The TSA supervisor said he did not have a card

1 but would offer the passenger his name. After the
2 supervisor gave the passenger his name, the passenger
3 then said that he wanted the supervisor's first name as
4 well.

5 At this point, I approached the passenger and
6 said that the supervisor does not need to give his first
7 name. The passenger said, and who are you, in
8 quotations, and I told him my name and position. He
9 said, quotations, what are you like the boss here, end
10 quotations. I said, I am the federal security director
11 responsible for the security at the checkpoint, and in
12 order for him to fly, he would need to complete the
13 screening process.

14 He then asked me for a card, which I did not
15 have, but I did write my name and position on the back
16 of the card for him. He asked me for my phone number,
17 and I said that if he wishes to file a complaint, he can
18 go to TSA.GOV to get the process.

19 The passenger kept demanding that the officer
20 who performed the pat down be arrested for sexual
21 assault. I told the passenger that since he opted out
22 of the AIT, we must follow the standard operating

1 procedures to complete the screening process.

2 MWAAs refused to arrest the TSA officer. So
3 the passenger said words to the effect, quotations,
4 fine, if you will not arrest him, I invoke my right to
5 make a citizen's arrest. I want you to arrest that TSA
6 officer, end quotations. MWAAs P.D. said no.

7 At some point the passenger said he did not
8 want to talk to me anymore, but I did tell him one more
9 time that if he wanted to fly, he would have to complete
10 screening.

11 After what seemed like 30 plus minutes of
12 talking, the passenger finally agreed to another pat
13 down by STSO Whetsell. MWAAs P.D. and I watched the pat
14 down. The passenger gathered his belongings, recomposed
15 and departed the screening area. A TSOC incident report
16 was filed Thursday 03/10/2016, IAD, Washington Dulles
17 International.

18 First bullet, TSA prechecked passenger opted
19 out of AIT screening at a standard lane. TSO began pat
20 down process. Passenger alleged TSO forcibly hit him in
21 a sensitive area as TSO began to pat down upper part of
22 inner thigh.

1 Metropolitan Washington Airport Authority
2 responded. Passenger attempted to claim citizen's
3 arrest against TSO conducting pat down.

4 FSD and senior staff responded to the
5 checkpoint, investigated passenger's allegations.

6 Passenger complied with screening process.
7 Screening completed, negative results.

8 CCTV was reviewed by TSA with conclusive
9 results. TSO conducted procedures as required.

10 That is the end of the first page.

11 Q You can stop there, page 1.

12 By the way, let's go back for one minute to
13 the page labeled TSA 000026, the second page of your
14 earlier statement, Mr. Polson. You state at the end of
15 the first sentence on the second page, the last words
16 there are, and continue to berate my actions. What
17 precisely do you mean by that?

18 A I don't recall the conversations we had after
19 it. I couldn't make quotations on anything you said.

20 Q Was there anything in body language that would
21 indicate any unruliness?

22 A I recall you being angry. I remember a lot of

1 hand gestures, I think. I don't recall the whole
2 situation at that point.

3 Q If I were part Italian, would the hand
4 gestures make any sense?

5 MR. SYLVERTOOTH: Form.

6 CAPTAIN LINLOR: Withdrawn.

7 BY CAPTAIN LINLOR:

8 Q What would be defining as berating?

9 A Berating would be putting down in my opinion.

10 Q Do you feel like you were put down?

11 A At the time, I believe I felt put down.

12 Q In what way did you feel put down?

13 A In my opinion at that time I had performed my
14 screening appropriately, and then to have the passenger
15 engage me in an angry manner, as I recall, that was
16 berating to me.

17 Q Do you believe if a passenger in your opinion
18 had been -- we defined striking before -- had been
19 struck using excessive force in the groin or testicles,
20 in your opinion would a passenger likely be mad?

21 A In my opinion, a passenger would be mad if he
22 was assaulted.

1 Q Anybody would be mad if they were assaulted;
2 right?

3 MR. SYLVERTOOTH: Form.

4 A I would agree.

5 BY CAPTAIN LINLOR:

6 Q Earlier, Mr. Polson, you had said that you did
7 not believe you were placed under citizen's arrest; is
8 that correct?

9 A That is correct.

10 Q And what were the reasons that you felt that
11 you were not placed under citizen's arrest again?

12 A I was not under immediate custody or
13 confinement.

14 Q Were there any other reasons?

15 A That's the main one that sticks out to me,
16 sir.

17 Q Do you acknowledge that the claim of placing
18 you under citizen's arrest was made by me?

19 A I don't recall you making a citizen's arrest
20 statement. All I have before me are statements made by
21 other people that say such, and it is therefore in their
22 opinion.

1 Q Did you believe that all the other statements
2 that I have shown you of people claiming that I made a
3 citizen's arrest on you are wrong and that you are
4 right?

5 MR. SYLVERTOOTH: Form.

6 A I can't speculate on anyone else's opinion.

7 CAPTAIN LINLOR: And what -- like what --

8 MR. SYLVERTOOTH: That's a mischaracterization
9 of every statement. No one said that -- none of these
10 statements indicated that you placed him under citizen's
11 arrest.

12 BY CAPTAIN LINLOR:

13 Q So to answer Counsel, on the -- the second
14 bullet point at the bottom of the page, TSO -- it was
15 submitted as TSA 000017. Could you read the second
16 clause in there, starting with "passenger attempted,"
17 second bullet point.

18 A You'd like me to read it?

19 Q Yes, please.

20 A Second bullet point at the end, TSA 17:
21 Metropolitan Washington Airport Authority responded
22 Passenger attempted to claim citizen's arrest against

1 TSO conducting pat down.

2 Q Mr. Polson, do you believe that that indicates
3 that I attempted to claim a citizen's arrest against
4 you?

5 MR. SYLVERTOOTH: Form.

6 A According to this statement it says you
7 attempted to claim citizen's arrest.

8 BY CAPTAIN LINLOR:

9 Q Do you believe that statement is wrong?

10 A I didn't write the statement, sir.

11 Q In your opinion, you claim that no statement
12 was made trying to put you under citizen's arrest;
13 correct?

14 A I do not recall being under any citizen's
15 arrest or arrest of any form.

16 CAPTAIN LINLOR: Please read back my question.

17 (Thereupon, the court reporter read back the
18 requested testimony.)

19 BY CAPTAIN LINLOR:

20 Q I don't believe your answer was responsive.

21 Could you --

22 CAPTAIN LINLOR: Can we read back my question

1 one more time, please.

2 (Thereupon, the court reporter read back the
3 requested testimony.)

4 A Correct.

5 BY CAPTAIN LINLOR:

6 Q Can you read one more time just the second
7 half of that sentence you just read, starting with
8 "passenger attempted."

9 A Passenger attempted to claim citizen's arrest
10 against TSO conducting pat down.

11 Q Do you wish to revise your previous answer
12 based upon what you just read?

13 A I do not.

14 Q Moving up slightly on the page, can you look
15 at the paragraph with blue teal kind of brackets and
16 read the sentence starting with, MWAA P.D., and ending
17 in the words "citizen's arrest."

18 A Just that first sentence?

19 Q Just that first sentence, going -- I'm sorry,
20 it's two sentences. Maybe it's two. I'm not sure. It
21 starts with MWAA P.D. and it ends with citizen's arrest.

22 A I think it's one. Okay. MWAA P.D. refused to

1 arrest the TSA officer, so the passenger said words to
2 the effect, quotations, fine, if you will not arrest
3 him, I invoke my right to make a citizen's arrest, end
4 quotations for that.

5 Q Do you still believe that no statements were
6 made placing you under citizen's arrest?

7 A I do.

8 Q Do you believe that FSD, I believe is his
9 title, FSD Scott Johnson is incorrect in his statement?

10 A That is his opinion of his -- he doesn't quote
11 you exactly. There's all sorts of open-ended things on
12 this statement, sir. I can't make an exact statement
13 out of that.

14 Q Do you believe you're right and he's wrong?

15 A I have no reason to believe one way or the
16 other.

17 Q You said previously that no statements had
18 been made placing you under citizen's arrest. Do you
19 still hold by that statement?

20 A From what I recall that day, I would agree.

21 Q Based upon what you know now, what you have in
22 front of you now at this deposition, do you still hold

1 by the statement?

2 MR. SYLVERTOOTH: Form.

3 A These statements are not refreshing that
4 incident -- that part of the incident. I still do not
5 recall you saying anything to the effect of citizen's
6 arrest.

7 BY CAPTAIN LINLOR:

8 Q Does the statement from Scott Johnson indicate
9 that I did?

10 A Scott Johnson's statement says to the effect,
11 quotations, fine, if you will not arrest him, I invoke
12 my right to make a citizen's arrest.

13 Q You said "to the effect," does that -- that
14 change what he wrote? That quote is, I invoke my right
15 to make a citizen's arrest. Do you not believe that
16 that is making a citizen's arrest declaration?

17 MR. SYLVERTOOTH: Form.

18 A I'm not trained on any citizen's arrest. I
19 can't -- I don't know.

20 BY CAPTAIN LINLOR:

21 Q I didn't ask you about training, Mr. Polson.
22 I asked you the words -- do the words say, I invoke my

1 right to make a citizen's arrest, does that mean that
2 somebody is invoking their right to make a citizen's
3 arrest?

4 MR. SYLVERTOOTH: Form.

5 A I'm not aware of what a citizen's arrest fully
6 is, nor a declaration that would be required for one.

7 BY CAPTAIN LINLOR:

8 Q Does the sentence there, I invoke my right to
9 make a citizen's arrest, does that mean that someone is
10 invoking?

11 MR. SYLVERTOOTH: Form.

12 THE WITNESS: Can you say your form for that
13 one? I'm not really sure what is the form.

14 CAPTAIN LINLOR: What is the form objection,
15 Counsel?

16 MR. SYLVERTOOTH: You're asking him -- all of
17 these questions seek a legal conclusion. Citizen's
18 arrest is a legal --

19 CAPTAIN LINLOR: No. No. I'm not asking --
20 I'm not asking --

21 MR. SYLVERTOOTH: That's the objection.

22 CAPTAIN LINLOR: Understood.

1 MR. SYLVERTOOTH: Okay.

2 BY CAPTAIN LINLOR:

3 Q I'm not asking for a legal conclusion. In
4 fact, that's the part where I think we're going around
5 on this, Mr. Polson. I'm not asking you for a legal
6 conclusion. I'm asking you if the words -- if you
7 understand the words, understand them in the same way
8 that I believe other people would as they are written;
9 not the conclusion of a citizen's arrest, not the legal
10 definitions, not the training for it, not the
11 background.

12 I'm saying, it says here, I invoke my right to
13 make a citizen's arrest. Does that say that the subject
14 in the sentence is invoking the right? Is that what
15 that says, please?

16 MR. SYLVERTOOTH: Form.

17 A It is saying that you -- you, Captain Linlor,
18 have a -- are invoking my right to make a citizen's
19 arrest.

20 BY CAPTAIN LINLOR:

21 Q Is this the statement of Scott Johnson?

22 A I believe it to be.

1 CAPTAIN LINLOR: I'm glad there wasn't a form
2 objection on that.

3 BY CAPTAIN LINLOR:

4 Q And you believe this statement from Scott
5 Johnson was to the best of his knowledge and ability?

6 MR. SYLVERTOOTH: Form.

7 A I can't speculate on it.

8 BY CAPTAIN LINLOR:

9 Q Did he sign this to be accurate and dated 14
10 March 2016?

11 MR. SYLVERTOOTH: Form.

12 A I believe he signed it and dated it 14 March
13 2016. To what effect he was signing it, it doesn't say.

14 (Polson Exhibit Number 5 marked for
15 identification.)

16 CAPTAIN LINLOR: Next into evidence is a
17 statement from Susan Callaghan previously submitted by
18 TSA on 000023 and TSA 000024, from March 18, 2016.

19 And I have an extra copy for counsel.

20 MR. SYLVERTOOTH: Thank you, sir.

21 Madam Court Reporter, is this Exhibit 5?

22 COURT REPORTER: 5.

1 BY CAPTAIN LINLOR:

2 Q Mr. Polson, can you read the full statement
3 please? It's two pages.

4 A This is the first time I'm seeing this
5 statement.

6 On Thursday, March 10th, 2016, at
7 approximately 11:55, I, TSM Susan Callaghan, responded
8 to a call at lane 50/51 for an unruly passenger. When I
9 arrived I introduced myself to the passenger and asked
10 if there was something I could do to assist him.
11 Passenger Linlor stated that he had been sexually
12 assaulted by Officer Polson. I was told by STSO William
13 Whetsell that the passenger had requested MWAA, and that
14 STSO Whetsell had made the request through ICC, Incident
15 Command Center.

16 TSM Johannes arrived at lane 50/51, a moment
17 after I did and said the passenger was berating the
18 officer. TSM Johannes asked Officer Polson to step away
19 from the area. Passenger Linlor objected to this
20 because he did not want Officer Linlor to be coached on
21 what his responses to law enforcement should be.

22 TSM Johannes stated to Passenger Polson that

1 he was not having his officer berated for performing his
2 job, that Mr. Polson could speak with him, in
3 parenthesis, TSM Johannes, end parenthesis. Mr. Polson
4 stated he did not wish to speak with TSM Johannes and
5 wanted the officer to stay where he was. I believe
6 that's a typo.

7 I then stated to Mr. Polson that when law
8 enforcement arrived, they would want to speak with all
9 involved separately so it would be best to have Officer
10 Polson step away but stay in view. Mr. Linlor concurred
11 this was an acceptable solution.

12 MWAA Metropolitan Washington Airport Authority
13 police officers arrived about 1200. I spoke with
14 Officer Mitchell to explain the situation. Officer
15 Mitchell then spoke with Mr. Carlson, and her partner
16 spoke with Officer Polson.

17 TSM Johannes and the officer then went to the
18 manager's office to review CCTV. Officer Mitchell goes
19 to the office to review what was on camera. I entered
20 the room after both officers had viewed the video. The
21 officers conferred with each other and concurred there
22 had been no assault committed.

1 The MWAA officers then went back out to lane
2 50/51 and stated to Mr. Linlor that there were no
3 violations that could be seen and they would not be
4 charging Officer Polson. Mr. Linlor then stated he
5 wanted to press charges. And the MWAA officers told him
6 he would have to go to the courthouse and file a
7 complaint to press charges.

8 Mr. Linlor asked MWAA for the video, and they
9 stated they did not have it, they viewed TSA's cameras.
10 FSD Scott Johnson arrived at this time and spoke with
11 Mr. Linlor. And Mr. Linlor stated he did not want to
12 speak with FSD Johnson.

13 During this time, I was still standing by the
14 EDT at lane 50/51 with TSM Flick who had arrived about
15 the same time as the FSD. While Mr. Linlor spoke with
16 FSD Johnson, he requested to make a citizen's arrest of
17 Officer Polson. MWAA declined to make this arrest.

18 FSD Johnson concluded his conversation and
19 walked to another area of the checkpoint. Mr. Linlor
20 was advised that he would still need to finish the
21 screening process. STSO Whetsell then proceeded to
22 conducting a standard pat down.

1 While STSO Whetsell was conducting the pat
2 down, Mr. Linlor asked TSM Flick for the video
3 information, to which she replied that she did not have
4 the information. STSO Whetsell completed the pat down
5 and told Mr. Linlor he was free to continue on with his
6 travel.

7 Mr. Linlor started gathering his belongings
8 and asked TSM Flick to write down her contact
9 information. TSM Flick stated to Mr. Linlor that she
10 was not writing down anything. Mr. Linlor then stated,
11 why -- quotations, why, are you illiterate. Mr. Linlor
12 then asked me for the video, and I told him we did not
13 have that information. TSM Flick and I then walked away
14 from the area. When Mr. Linlor was leaving the
15 checkpoint, he walked over and requested my business
16 card, which I gave him.

17 On Tuesday, March 15th, 2016, I received a
18 phone call at approximately 0940. The caller identified
19 himself as Mr. Linlor. Mr. Linlor stated he was putting
20 me on notice that he had spoken to his counsel and was
21 requesting all video. Mr. Linlor then asked if I knew
22 the fax number on his -- on my business card was

1 incorrect. And I stated I did not, but since I was not
2 on duty, I can give him the receptionist's number and he
3 could request to speak with who he wanted and get a fax
4 number.

5 I then concluded the call with Mr. Linlor,
6 signed on both pages, Susan Callaghan, March 18th, 2016.

7 Q In your earlier statement, Mr. Polson, you had
8 said that the TSM had you step away in around a nearby
9 corner; is that correct?

10 A Yes.

11 Q And can you read on this statement you just
12 read the last sentence of paragraph 1, starting with "I
13 then stated." Just that one sentence, ending with
14 "solution."

15 A I then stated to Mr. Polson that when law
16 enforcement arrived, they would want to speak with all
17 involved separately so it would be best to have Officer
18 Polson step away but stay in view.

19 Q Do you feel, Mr. Polson, that this sentence
20 conflicts with the sentence in your statement where you
21 claimed they had you step around the corner?

22 A I would not, because it still says prior.

1 Q Why are they not in conflict?

2 A Earlier it also says that he was not having an
3 officer berated for performing his job. So he was
4 trying to get me away from the area.

5 Q Does the statement from Susan Callaghan state
6 on the last line of paragraph 1 that to step away, but
7 stay in view?

8 A It says, step away, but stay in view.
9 Ms. Linlor concurred that this was an acceptable
10 solution.

11 Q How will you state -- do you believe that you
12 did that or that you did not do that? Do you believe
13 that this report from Susan Callaghan, this report from
14 her is what you did or did not do?

15 A I would say it's not what I did.

16 Q You believe that she is -- her statement is
17 wrong and your statement is right?

18 A I believe -- to me, I went around the corner
19 and broke your point of view to me.

20 Q From your experience in Secret Service, would
21 you want to have a witness be out of your view, direct
22 line of view?

1 A As the officer? I need you to specify,
2 please.

3 Q As an officer now in the Secret Service, if
4 you have a witness that you want to make sure is not
5 compromised in some method, talking to someone else or
6 who knows what, don't you want to keep them usually in
7 your field of view?

8 A As an officer with the Secret Service, we
9 deliberately separate all witnesses to an incident so
10 that they cannot corroborate their stories together.

11 Q And you don't have a witness go outside of
12 everybody's view without being on video or being
13 supervised by someone; correct?

14 A As a law enforcement officer, I would -- I
15 would want to have a visual -- I would actually -- when
16 we separate, sir, we -- we are in pairs to the point
17 where we take one witness one way and we take the other
18 witness the other way, so that they aren't looking at
19 each other when they give their statements, and then we
20 switch and compare the story so to speak.

21 Q Had the MWAA P.D. arrived already when you
22 went around the corner?

1 A I don't recall.

2 Q Was an MWAA P.D. officer with you when you
3 went around the corner?

4 A I don't believe so.

5 Q Would that be violating your Secret Service
6 rules as far as keeping control of witnesses, to have a
7 witness step around the corner out of the view of
8 everybody else and out of the view of the cameras?

9 MR. SYLVERTOOTH: Form.

10 A My Secret Service policy isn't in question
11 here, sir.

12 BY CAPTAIN LINLOR:

13 Q I'm asking you for an opinion.

14 A We -- there is no rule for that. That is
15 personal practice for safety reasons.

16 Q On the second paragraph, the last -- the next
17 to the last sentence starting with "while Mr. Linlor,"
18 can you read that one sentence please? It's the third
19 line up from the bottom of the third -- third line up
20 from the bottom of the first -- second paragraph on page
21 1. "While Mr. Linlor spoke."

22 A While Mr. Linlor spoke with FSD Johnson, he

1 requested to make a citizen's arrest of Officer Polson.
2 MWAA declined to make this arrest. FSD Johnson
3 concluded his conversation and walked to another area of
4 the checkpoint.

5 Q This statement is by Susan Callaghan. Do you
6 agree?

7 A I believe she signed this statement.

8 Q And she signed this with it being her full
9 intent and belief, knowledge under oath, whatever you
10 want to call it?

11 MR. SYLVERTOOTH: Form.

12 A I can't speculate on --

13 BY CAPTAIN LINLOR:

14 Q But she signed it meaning that it's her full
15 and correct impressions as she believed them?

16 MR. SYLVERTOOTH: Form.

17 A She signed the statement. I can't say why
18 she --

19 BY CAPTAIN LINLOR:

20 Q She signed the statement.

21 Does the statement state that

22 Mr. Linlor -- referred to you as he, the pronoun he --

1 requested to make a citizen's arrest of Officer Polson?

2 A He, referring to Captain Linlor, requested to
3 make a citizen's arrest of Officer Polson, according to
4 this statement.

5 Q How many statements have so far been made that
6 claim that I -- that I made a citizen's arrest of you
7 from your count so far, Mr. Polson?

8 A Statements given to me so far, I would say
9 there are about three here in front of me.

10 Q Based on seeing those three statements, do you
11 think all those statements in your opinion are
12 inaccurate and your statement that no statement was made
13 placing you under citizen's arrest is correct?

14 A I haven't made a statement of that. I said I
15 did not recall being placed under arrest.

16 Q Do these statements you have -- the three
17 statements you have now read at this deposition refresh
18 your memory to where you want to amend your previous
19 statement?

20 A They do not.

21 Q Why do you not believe them significant enough
22 to update your personal opinion of having been placed

1 under citizen's arrest whether or not you consider not
2 to be valid?

3 A As I'm speaking in recollection, I don't
4 recall of -- I don't have a memory of being placed under
5 citizen's arrest or being told that I was under
6 citizen's arrest. All of these statements are made by
7 other people, and I can't speak to their point of view.

8 Q Do you believe that they made those statements
9 in their opinions as written here accurately?

10 A I believe they would make it as accurately as
11 they could, but even I have -- see typos in all of this
12 stuff to the issues.

13 Q Can you think of any reason why three people
14 so far who are all TSA personnel and some of them are
15 managers, one is - Susan Callaghan, I believe, is a
16 third level manager. The -- William Whetsell is a
17 second level manager, TSO being first level, William
18 Whetsell is a second level manager, Susan Callaghan is a
19 third level manager, FSD Scott Johnson is a fourth level
20 manager, they all have said that I made statements to
21 place you under citizen's arrest. Do you agree with
22 that statement?

1 MR. SYLVERTOOTH: Form.

2 A I do not.

3 BY CAPTAIN LINLOR:

4 Q What part do you not agree with?

5 A The levels of supervision, sir.

6 Q Okay. Disregarding the levels of supervision,
7 do you -- do you disagree that William Whetsell, Susan
8 Callaghan, and Scott Johnson all made statements
9 claiming that I claimed to place you under citizen's
10 arrest on 10 March 2016?

11 MR. SYLVERTOOTH: Form.

12 A I believe that there are several statements in
13 front of me attesting that you attempted to place me
14 under citizen's arrest.

15 BY CAPTAIN LINLOR:

16 Q Do you believe that I even stated those words,
17 I place you under citizen's arrest, according to their
18 statements?

19 A According to their statement, I would not.

20 Q What do you -- what do you believe is the --
21 the question is --

22 CAPTAIN LINLOR: Read back the question.

1 Let's make sure we're clear on the question.

2 (Thereupon, the court reporter read back the
3 requested testimony.)

4 BY CAPTAIN LINLOR:

5 Q So you do not believe that all of these
6 statements -- "all of these statements" being these
7 three statements affirmed by Callaghan, Whetsell, and
8 Johnson -- you do not believe that they give the same
9 indication, that I placed -- that I placed you under
10 citizen's arrest on 10 March 2016?

11 MR. SYLVERTOOTH: Form.

12 A I do not.

13 BY CAPTAIN LINLOR:

14 Q What do you think is missing from those
15 statements or incorrect about those statements that do
16 not render them accurate at me placing you under
17 citizen's arrest?

18 MR. SYLVERTOOTH: Form.

19 A I don't understand citizen's arrest
20 completely. So from -- all I have is to collect what
21 you've been saying to me so far.

22 BY CAPTAIN LINLOR:

1 Q I'm not asking you what defines citizen's
2 arrest.

3 A So the legal --

4 Q I'm asking you if the word -- and this is not
5 legal opinion. This is simply an opinion based upon
6 what is written down on these statements. These
7 statements all appear to memorialize that I stated I was
8 placing you under citizen's arrest. That is all that
9 I'm asking to verify with you, is if you acknowledge
10 that these statements say that without any implication
11 of a legal conclusion.

12 A I'm sorry, was that a question or a statement?
13 That sounded more like a statement, sir.

14 Q Sorry. Sorry.

15 CAPTAIN LINLOR: Maybe the court reporter can
16 read that back. It was a question.

17 (Thereupon, the court reporter read back the
18 requested testimony.)

19 BY CAPTAIN LINLOR:

20 Q Now, do you understand that was a question,
21 please?

22 A That is still a statement, sir.

1 Q Do you agree that the statements use the
2 words, placing Mr. Polson under citizen's arrest, the
3 statements from Callaghan, Johnson, and Whetsell?

4 A I do.

5 Q Do you agree that those statements conflict
6 with your statement of no one having issued any
7 statements placing you under citizen's arrest?

8 A My statement is that I do not recall being
9 placed under citizen's arrest. My issue with the
10 statements not conferring with that is that most of them
11 state you attempted to, and it was denied by several
12 officers of law enforcement.

13 Q Is a law enforcement officer allowed to deny a
14 citizen's arrest?

15 MR. SYLVERTOOTH: Form.

16 A That's a legal thing I am not aware of.

17 BY CAPTAIN LINLOR:

18 Q Based on your training and opinion as a Secret
19 Service officer, is a law enforcement officer allowed to
20 deny a citizen's arrest and to --

21 MR. SYLVERTOOTH: Form.

22 BY CAPTAIN LINLOR:

1 Q -- refute it?

2 MR. SYLVERTOOTH: I'm sorry.

3 A As stated previously, in my training for
4 Secret Service we do not cover citizen's arrest.

5 BY CAPTAIN LINLOR:

6 Q I would like to enter into evidence a document
7 filed with the court, Plaintiff's reply to TSA's Motion
8 to Quash Subpoena of Documents by third party, William
9 Whetsell, in his individual capacity. Actually, we'll
10 come back to this one in just a minute. It will be
11 relevant, but we're going to do something else first.

12 On the document already entered for the
13 Plaintiff's Motion to Determine Spoliation of Evidence,
14 I believe you have that one in front of you. Let me get
15 the correct page here.

16 A Number 1?

17 Q Can you turn to page 26, Exhibit B.

18 MR. SYLVERTOOTH: I'm sorry, did we ever mark
19 this as an exhibit?

20 THE WITNESS: Yes. That's Number 6.

21 COURT REPORTER: He put it aside.

22 (Polson Exhibit Number 6 marked for

1 identification.)

2 THE WITNESS: Plaintiff's reply to TSA's
3 motion.

4 MR. SYLVERTOOTH: Captain Linlor, you're on
5 Exhibit 1 now?

6 CAPTAIN LINLOR: Yes.

7 MR. SYLVERTOOTH: What page?

8 THE WITNESS: 26.

9 CAPTAIN LINLOR: 26.

10 BY CAPTAIN LINLOR:

11 Q On page 26, Mr. Polson, you see a summary on
12 page 26 of the statements made by other TSO employees,
13 starting about halfway down the page with a summary of
14 statements of 10 March 2016, submitted by TSA under
15 subpoena. Do you happen to see that?

16 A I see it.

17 Q So disregarding what may be a quick question
18 about second level or third level or whatever level
19 somebody is, do you see the -- a summary of statements
20 here referred to as -- as the -- by you. Is it accurate
21 as represented here that Mr. Linlor, Captain Linlor --
22 Mr. Linlor written here -- asked for police to be called

1 so he could file charges for sexual assault by Michael
2 Polson? Did your statement include that information?

3 CAPTAIN LINLOR: Court reporter, how are you
4 doing?

5 COURT REPORTER: Good.

6 CAPTAIN LINLOR: If you need a break also,
7 you'll speak up; right?

8 COURT REPORTER: Thank you. Yes.

9 THE VIDEOGRAPHER: We'll have to take one in
10 about 20 minutes for me to change media anyway.

11 CAPTAIN LINLOR: Okay. Let me know when.
12 Thanks.

13 A To answer the question, I would just quote my
14 statement here, Exhibit 3, last paragraph on page TSA
15 000025: Bill asked the passenger what happened, and the
16 man -- and the man requested police to be brought so he
17 could file sexual assault against me, because --

18 BY CAPTAIN LINLOR:

19 Q Can you read the sentence starting with
20 "Mr. Linlor asked for police" and tell me if that is --
21 first, one question at a time.

22 A Mr. Linlor asked for police so he could be

1 called -- so he could file charges for sexual assault by
2 Michael Polson.

3 Q Do you think that accurately reflects what you
4 wrote in your statement?

5 A I would agree according to my statement,
6 Exhibit 3.

7 Q Would you read the next sentence, please,
8 "Bill Whetsell called"?

9 A Bill Whetsell called police at Linlor's
10 request.

11 Q Do you believe that that accurately reflects
12 what you have in your statement?

13 A Yes, according to the last paragraph, Bill
14 complied and requested MWAA respond to lane 50 to 51.

15 Q Jump ahead to page 35 of the same document.
16 Do you recognize the document incorporated on page 35,
17 Mr. Polson?

18 A I do not.

19 Q It's one of the disclosures that was made on
20 page 35 and 36 of the document titled Plaintiff's Motion
21 to Determination Spoliation of Evidence and Appropriate
22 Sanctions. Pages 35 and 36 include two pages out of

1 Defendant's Rule 26(a)(1)(A)(i) disclosures made. And
2 it lists -- it's a table listing witness -- witnesses
3 and subject matters with the names Susan Callaghan, Carl
4 Johannes, Scott Johnson, Michael Polson, William
5 Whetsell, custodian Transportation Security
6 Administration. And it continues on the next page with
7 other Transportation Security Administration Employees
8 and Washington -- Metropolitan Washington Airport
9 Authority officers, specific officer names unknown at
10 this time.

11 Did you contribute information to the creation
12 of this table, Mr. Polson?

13 A I provided all facts as I believed them to be
14 true and accurate to my counsel, who then prepared all
15 the legal documentation necessary.

16 Q Have you seen this table before?

17 A I'm pretty sure I saw this during my prep
18 session three days ago. That was the first time I
19 remember really reading this. That's the last time I
20 recall.

21 Q Do you -- except for yourself for -- and for
22 you, it says, contact through undersigned counsel; is

1 that correct?

2 A That is what it says on the document.

3 Q And the document for the other witnesses that
4 are listed here -- and these are witnesses -- for
5 witnesses Susan Callaghan, Carl Johannes, Scott Johnson,
6 and William Whetsell, custodian Transportation Security
7 Administration, other Transportation Security
8 Administration employees and Metropolitan Washington
9 Airport Authority officers, for all of those do you
10 agree that it says, contact information unknown?

11 A I would agree that most of this lists -- yes,
12 as you stated, Susan Callaghan, Carl Johannes, Scott
13 Johnson, William Whetsell, custodian Transportation TSA,
14 other -- and MWAA, all say "contact information unknown"
15 beneath them.

16 Q Okay. Have you worked with any of these
17 people, Mr. Polson, in this list?

18 A Yes.

19 Q Whom have you worked with?

20 A William Whetsell is my -- was my supervisor at
21 TSA.

22 Q How would you define working with? Would it

1 be someone that is only your direct supervisor or would
2 you also define working with as their bosses, their
3 managers or supervisors if you ever have interactions
4 with them?

5 A The supervisors, you didn't -- it was never
6 guaranteed you'd actually work with them on a day-to-day
7 basis. They filled a universal supervisory role,
8 meaning they would schedule people at checkpoints. They
9 would set the shifts. On this day in question, he just
10 happened to be at the same checkpoint I was.

11 Q If you wanted to get Mr. Whetsell's -- let's
12 pick Mr. Whetsell because he's probably the closest
13 relation of the folks here to you -- is that correct; do
14 you think?

15 A I would agree he's the one I know best out of
16 all of them.

17 Q If you want to get his phone number, how would
18 you do it?

19 A I would message him on social media.

20 Q Okay. Which social media?

21 A I believe I know him on Facebook.

22 Q Do you message him very often on Facebook?

1 A No.

2 Q When have you messaged him on Facebook?

3 A I haven't.

4 Q Is he lurking on your page or something? He's
5 like a friend, but not really, he kind of follows you,
6 but he doesn't really follow you?

7 MR. SYLVERTOOTH: Form.

8 A I remember I -- I remember I friended him
9 right after I left TSA because we didn't want to deal
10 with fraternization of having supervisors as friends.
11 So to separate the levels of supervision, he wouldn't
12 friend typically anybody that would be under his
13 supervisory role.

14 BY CAPTAIN LINLOR:

15 Q Okay.

16 A So when I left, he -- I remember we friended
17 on Facebook, and we didn't -- we don't talk. It's more
18 of just an update to see how people are doing in our
19 lives.

20 Q When you were working at TSA, did you -- did
21 you ever have contact information for Mr. Whetsell?

22 A Yes.

1 Q What contact information did you have?

2 A I believe I had his cell phone number to reach
3 him and a work number.

4 Q Okay. So he had a work phone and a personal
5 cell phone?

6 A No. The work phone was to a desk. It was a
7 general board, so to speak.

8 Q Okay. Did you have his e-mail?

9 A His work e-mail would be just first -- last
10 name as every TSA.

11 Q Do you have his personal e-mail?

12 A I do not.

13 Q Did you?

14 A No.

15 Q So you had his personal cell phone and desk
16 work phone and his work e-mail?

17 A While I was employed by TSA.

18 Q While you were employed by TSA.

19 Is there a reason why you didn't provide those
20 pieces of information in your disclosure here?

21 A I do not have them anymore.

22 Q You did not have them at the time of the

1 incident?

2 A At the time this was prepared, to my
3 knowledge, this was -- I did not have his contact
4 information by cell phone or e-mail.

5 Q What had happened to it?

6 A I didn't keep it.

7 Q Why didn't you keep it?

8 A I didn't need it anymore.

9 Q Why did you not need it anymore if there was a
10 question about a passenger wanting to press charges
11 against you for excessive force in violation of the
12 Fourth Amendment to the Constitution?

13 A At the time I left TSA this was not a court
14 case.

15 Q Did you understand on March 10th, that I
16 wanted to press charges against you for felony sexual
17 battery?

18 A I understand that there were alleged charges
19 brought against me of felony sexual battery by you on
20 March 10th, 2016.

21 Q Did you understand that when -- that the
22 possibility of such charges could be litigation;

1 correct?

2 A I wasn't aware on that day of what could
3 possibly come out of it. On that day in question, as
4 soon as the police cleared everything, it was the idea
5 that it's over and I wouldn't have to deal with anything
6 coming out of that day. The only reason I wrote a
7 statement the next day was it was recommended by my
8 supervisor that I make a statement.

9 Q Is that by William Whetsell?

10 A That would be by William Whetsell.

11 Q And did he review that statement afterwards?

12 A I do not know if he reviewed it. I sent it to
13 him to put into my file, and that was all.

14 Q Do you -- you still don't remember the TSM
15 whom you said told you that you had done everything
16 right and that there would be no follow-up?

17 A I still do not remember his name.

18 Q It was a male, so we know it wasn't Susan
19 Callaghan.

20 Do you know what Carl Johannes looks like?

21 A To be honest, the first time I saw the name,
22 that was three days ago in the prep session when I saw

1 Johannes, and the name didn't ring a bell. It was a
2 name and --

3 Q So it could have been him, it could have been
4 someone else, one of the three TSMs? Was it three TSMs
5 or four?

6 A It was three, sir.

7 Q Okay. So you had William Whetsell's
8 information. And when were you providing the
9 information for this table?

10 A I'm not sure what information was exactly
11 gathered into putting this. I remember when I was
12 contacted by DOJ, they were asking me for anyone who
13 might have an idea as a witness. I provided names, and
14 I think I provided relationships of how I knew them, but
15 everything else past that I just provided to the best of
16 my abilities. And they provided all the legal
17 documentation to put this together.

18 Q Who at DOJ contacted you?

19 A My first legal contact would be by TSA's
20 Attorney Noonan and then Mr. Bryant. And then DOJ, I
21 had an attorney prior to Mr. D'Ontae here, Murley. I
22 don't recall her name. And she was the one prior to

1 Mr. Sylvertooth.

2 Q So you had Mr. Whetsell's phone numbers, the
3 two that you referenced, and his work e-mail. Is there
4 anyone that you could have requested to get that
5 information from to be able to provide it here?

6 A I don't -- I don't know who I would have gone
7 through. Again, everything was done through the
8 attorneys.

9 Q Do you feel -- I think you said before, is it
10 correct that you did not feel that you had any personal
11 responsibility to preserve any of this information?

12 A On the day in question, after the police made
13 a statement and my managers told me that I had done
14 correctly, I felt there was no case to be made. There
15 was no more allegations of a charge of any sort.

16 Q Can we go over the document, which was given
17 to you now, I'd said put it aside, please, the
18 Plaintiff's motion to -- Plaintiff's Reply to TSA's
19 Motion to Quash Subpoena.

20 THE VIDEOGRAPHER: We have about five minutes
21 before I have to change my media.

22 CAPTAIN LINLOR: Got it. I'll just ask one or

1 two questions.

2 BY CAPTAIN LINLOR:

3 Q Could you turn to page 6, please. I'm going
4 to ask you to read something. I want to get your
5 personal opinion, but not a legal conclusion or
6 anything. I know that it refers to a case, but it's
7 more of the general statement that's in there that I
8 want to get your opinion on.

9 On page 6 paragraph D, so in the middle
10 paragraph, D, it says here -- could you read starting
11 with the middle paragraph where it starts with the words
12 "as defined" -- I'm sorry, starting with "party's
13 possession, custody or control." And just read that
14 through to the end of the quotes, about three lines
15 ending with the words "to the action."

16 A Start with "Party's"?

17 Q Party's, yes, please.

18 A This is the first time I'm seeing this
19 document. We're on page 6 of Exhibit 6: Party's
20 possession, custody or control as defined, quotations,
21 documents that are potentially relevant to likely
22 litigation, quotations, are considered to be under a

1 party's control when that party has the right authority
2 or practical ability to obtain the documents from a
3 nonparty to the action, end quotations.

4 Q And then can you read the -- just the
5 subparagraph 2 underneath that, starting with the word
6 "control," just that one sentence.

7 A The first sentence, in quotations, control,
8 end quotations, in this context has also been defined
9 as, quotations, legal right, authority or ability to
10 obtain upon demand documents in possession of another,
11 end quotations.

12 Q So knowing the things you do now, do you think
13 that it would have been possible, it would have been in
14 your ability or control, not a legal conclusion, but
15 just as an opinion, in your ability or control to obtain
16 the phone numbers that you say you had lost from
17 Mr. Whetsell as well as to provide his work e-mail?

18 MR. SILVERTOOTH: Form.

19 A Under what day are we speaking?

20 BY CAPTAIN LINLOR:

21 Q When you were providing information for this
22 chart?

1 A When I was providing this documentation, I did
2 not have his contact information anymore as I had
3 already left TSA and I was already employed by the
4 Secret Service.

5 Q Did you know what Mr. Whetsell's e-mail had
6 been previously?

7 A I do.

8 Q Is there a reason why you couldn't have
9 written that down?

10 A I did not prepare this documentation.

11 Q Did you provide information for this
12 documentation to -- as part of this case?

13 A I provided, I remember, names and their
14 relationships to me.

15 Q Did they -- did anyone ask you for any --

16 THE WITNESS: He's leaving.

17 CAPTAIN LINLOR: I know. He's getting ready
18 to pounce.

19 BY CAPTAIN LINLOR:

20 Q Did anyone -- did you provide contact
21 information for any of your witnesses?

22 A I don't recall --

1 MR. SYLVERTOOTH: I'm going to instruct the
2 witness not to answer as it relates to attorneys
3 representing you. You can answer that question as it
4 relates to any other individuals, but as it relates to
5 attorneys representing you in this case, I'm going to
6 instruct you not to answer.

7 BY CAPTAIN LINLOR:

8 Q And could you confirm that you are then, from
9 the standpoint of attorneys, that you are invoking
10 privilege and declining to answer that question, please?

11 A I am invoking privilege to not talk about the
12 documentation and such that I have given my attorneys
13 under privilege.

14 Q I have a couple of questions. If you feel --
15 if you feel the need to invoke the same privilege, feel
16 free.

17 Were you in the -- was it possible for you to
18 ask anyone to get their contact information and provide
19 it here?

20 A I'm sorry, can you repeat the question?

21 Q Was it possible for you to ask anyone to
22 provide the contact information for the witnesses you

1 listed?

2 A It was possible maybe for Mr. Whetsell, but I
3 didn't have contact with anyone else on the list.

4 Q If it was an important situation, maybe
5 somebody won the lottery and you really wanted to let
6 them know, do you have anyone you would have called to
7 try to reach them or get contact information on them?

8 MR. SYLVERTOOTH: Form.

9 CAPTAIN LINLOR: Okay. Withdrawn. Let me go
10 and change it. We'll get the lottery out of it.

11 A With -- you're talking about the people on the
12 list?

13 MR. SYLVERTOOTH: Is that the same question
14 pending? Same question --

15 CAPTAIN LINLOR: No. I withdrew it. I
16 withdrew it.

17 MR. SYLVERTOOTH: All right.

18 BY CAPTAIN LINLOR:

19 Q I'm asking, for the people here, did you have
20 any ability to ask -- to ask anyone, anyone, for their
21 help to provide this information -- the contact
22 information on these witnesses?

1 A At the time my ability was going through my
2 TSA counsel, who is Mr. Bryant at the time, who was my
3 connection to TSA.

4 Q Did you do so?

5 A I don't recall.

6 Q Do you have any documentation showing that you
7 did?

8 A I wouldn't be able to provide it to you, sir.
9 That would be privileged information.

10 Q So that's invoking your privilege right;
11 correct?

12 A Correct.

13 CAPTAIN LINLOR: Do you want to take a break
14 and change tapes?

15 THE VIDEOGRAPHER: That would be great.
16 Off the record at 1:03.

17 (Brief recess held.)

18 THE VIDEOGRAPHER: Back on the record at 1:15.

19 BY CAPTAIN LINLOR:

20 Q Mr. Polson, you applied for a job with the
21 Secret Service you said back in January of 2016; is that
22 correct?

1 A Yes.

2 Q And this incident occurred on 10 March 2016;
3 right?

4 A Yes.

5 Q So you were approximately three -- two months
6 into the application process when this event occurred;
7 is that correct?

8 A It is not, sir. The application is different
9 than you might imagine for that. It's -- you submit the
10 actual online application and then you wait to hear
11 back.

12 Q Is that what you were referring to, the --

13 A I was waiting -- it was a waiting period, yes.
14 So the actual written application for U.S. Jobs was
15 submitted in January, but then there's a waiting period
16 after that.

17 Q But you intended to -- I mean, you wanted to
18 get a job with the Secret Service?

19 A Yes, I did.

20 Q Why?

21 A It was always a dream, sir.

22 Q Was there an increase in salary?

1 A There is an increase in salary.

2 Q Ratio-wise, is the TSA -- is the Secret
3 Service salary about double then the TSA salary?

4 MR. SYLVERTOOTH: Form.

5 CAPTAIN LINLOR: What do we do about
6 clarifying?

7 MR. SYLVERTOOTH: Mr. Polson was part time at
8 TSA. He's full time at -- so I'm trying to get --

9 CAPTAIN LINLOR: Oh, really?

10 MR. SYLVERTOOTH: -- the information that you
11 want.

12 CAPTAIN LINLOR: Well, thank you. I
13 appreciate that. I'm glad someone -- no one told me
14 that before.

15 BY CAPTAIN LINLOR:

16 Q You were part time with TSA?

17 A That is correct.

18 Q Thank you.

19 Salary with Secret Service full time is
20 undoubtedly higher than part time with TSA; correct?

21 A That is correct.

22 Q That was -- that was a shocker. Okay.

1 Salary with TSA, from my understanding, it was
2 not much?

3 A I don't recall.

4 Q In the big scheme of things?

5 A I don't know what our salary was.

6 Q In the big scheme of things, it was --

7 A It was small.

8 Q It was small. Every little bit helps --

9 A For the area --

10 Q -- hurts, and counts -- yeah.

11 A For the area, it was -- it wasn't enough to be
12 the only source of income.

13 Q What other sources of income did you have?

14 A I was in the Reserves as well, Air Force
15 Reserves.

16 Q Did that provide you with -- as a percentage
17 of your gross income, could you say then that TSA was
18 half or two-thirds and then Air Force was one-third or
19 could you kind of give a ratio? And I'm trying to be
20 sensitive to your personal information, Mr. Polson, and
21 not go and start bandying about salary numbers or
22 whatever else because the exact number like that

1 shouldn't be relevant, I don't think. I want -- I want
2 kudos for being a nice guy. Let's move on. Sorry.

3 MR. SYLVERTOOTH: Oh, great, kudos.

4 CAPTAIN LINLOR: Yeah. Thank you very much.
5 I'll get credit in heaven. Let's move on.

6 MR. SYLVERTOOTH: I nodded.

7 CAPTAIN LINLOR: Nodded. Yes. Yes.

8 A The question, you still want the ratio?

9 BY CAPTAIN LINLOR:

10 Q I would, though.

11 A At the time I wasn't relying upon that as a
12 salary anyway. I wasn't living on my own. I didn't
13 move out of my parents'. So when I got out of active
14 duty, I went back and lived in my parents' house,
15 because I couldn't find enough income, especially with
16 part-time jobs that I was getting, to afford my own
17 apartment in the area for Fairfax County.

18 So at the time I was still living with my
19 parents. So the income for TSA wasn't something -- it
20 was something I was able to get through doing my own
21 stuff and kind of have fun on my own time, but it wasn't
22 something I was relying upon in any means.

1 Q I don't know if your parents were able to do
2 this or not, but was the -- were you able to have them
3 more or less help you out I guess with the -- wasn't the
4 Affordable Care Act, you can be -- I'm not sure how old
5 you are, if you're still on the insurance for them or
6 not, but I have no idea. Are you still on their
7 insurance?

8 A I am not.

9 Q But anyway, you were able to stay with them.
10 During what period were you still living there, please?

11 A From the time I got out of active duty, it was
12 March of 2015 or February, February of 2015, until
13 December of 2016.

14 Q As part of the application -- I'm sorry, you
15 said through December 2016; right?

16 A Correct.

17 Q As part of the application for Secret Service,
18 do you have to fill out any standardized forms?

19 A For the application, we fill out the USA Jobs'
20 application. It's all pre-filled. You just answer the
21 questions on USA Jobs. I don't have to actually make my
22 own form or anything.

1 Q Is there at some point you fill out an SF85
2 form?

3 A We fill out an SF86, that I recall, as a
4 security document. Can you tell me what an SF85 would
5 be?

6 Q I don't know what an SF85 was. I thought it
7 was an SF -- maybe it's SF86.

8 MR. SYLVERTOOTH: There are -- there are
9 multiple layers. It depends on the security.
10 BY CAPTAIN LINLOR:

11 Q I was -- I thought it was an SF86. My
12 mistake. I stand corrected.

13 What does an SF86 contain?

14 A It's a security questionnaire, is what it's
15 defined as.

16 Q Does it cover pending cases like this one?

17 A I don't recall. I remember there was a court
18 section, but I don't -- I think it was more along of yes
19 or no questions on, have you ever been charged with a
20 felony, stuff like that. I don't recall exact phrasing
21 in any form.

22 Q Was anyone else aware of your applying to the

1 Secret Service?

2 A My parents were. I had done the application
3 with a co-worker, because he and I were both trying to
4 get in using the Veteran's preference that we still had.
5 So a co-worker from TSA had referred me to the position.
6 Other than that, I mean, I never really specified it
7 with anybody until after I actually received the class
8 start.

9 Q Who was the co-worker?

10 A Jay. I remember him as Jay.

11 Q Do you remember his last name or is that his
12 initial or nickname or what?

13 A His first name was Jay, like J-a-y. Jay.

14 Q Okay. Do you know his last name?

15 A I don't recall his last name.

16 Q Do you know what he did, what his job was?

17 A He was the same position as I was at the
18 checkpoints because he was in my same training class.

19 Q At -- with -- with the TSO training class?

20 A TSO training class.

21 Q Did you keep in touch with people from the TSO
22 training class?

1 A I don't keep constant contact. It's more of
2 we're friends on Facebook, so I see what they update on
3 their Facebook page. I don't --

4 Q How many of the people from your training
5 class did you keep friends with on Facebook?

6 A After my employment with TSA?

7 Q During -- during or after, any time.

8 A Maybe three.

9 Q Okay. And Jay was one of those three?

10 A Jay is one I have on -- is a friend on
11 Facebook.

12 Q Is he still on Facebook with you?

13 A Last time I checked. I don't think we've
14 removed each other.

15 Q Okay. Is he -- have you discussed any part of
16 this case with Jay?

17 A I have not.

18 Q And you don't know his last name?

19 A No.

20 Q Is his last name listed on Facebook?

21 A It might be.

22 Q Would you have -- would your looking up your

1 Facebook friends be in your control?

2 A Yes.

3 Q So if you wanted to find out his name, you'd
4 be able to look it up?

5 A I could probably find his last name if it was
6 listed on Facebook.

7 Q Does Mr. Whetsell, is he -- Mr. Whetsell is a
8 Facebook friend of yours now; correct?

9 A I believe so, yes.

10 Q Does he have -- do you know any other e-mail
11 or Facebook handle for him or any other -- anything else
12 that relates to his identity?

13 A No.

14 Q You don't have a Facebook handle? He doesn't
15 have a Facebook account?

16 A Does he or do I?

17 Q Does he.

18 A Yes, because he's my -- I believe him to be a
19 friend on my Facebook page.

20 Q Okay. So he has a Facebook account?

21 A Yes.

22 Q Do you know his Facebook handle?

1 A I do not know what it is off the top of my
2 head. It should be his first or last name.

3 Q But you could look -- you could go to your
4 Facebook account and look that up; right? Correct?

5 A I would be able to, yes.

6 Q So that would be under your control?

7 A I would agree.

8 Q So if you didn't have his address or phone
9 number as far as contact information in the list we were
10 looking at before, Rule 26 disclosures, would -- was
11 there anything preventing you from putting his Facebook
12 information in there?

13 A I don't recall it asking for a Facebook
14 contact.

15 Q It asked for names and phone -- for addresses
16 and phone numbers. You put no information. Would it
17 be, in your opinion, relevant to do the best you can?

18 A If it's asking for an address and/or phone
19 number, I wouldn't have provided a Facebook contact. It
20 wouldn't have been relevant.

21 Q Did you make any attempts to retain any
22 evidence with any of your social media? You mentioned,

1 I think -- is it Facebook and Tumblr or --

2 A I have -- I have a Tumblr account.

3 Q Did you make any attempts to retain any
4 information, ESI, which is electronically stored
5 information? Did you make any attempts to retain any
6 ESI from any of your social media after this incident?

7 MR. SYLVERTOOTH: Form.

8 CAPTAIN LINLOR: What would you like, Counsel?

9 MR. SYLVERTOOTH: Well, first of all, that
10 question is too broad. So if you're asking him if he
11 had any -- did he try to retain evidence relating to
12 this case.

13 CAPTAIN LINLOR: I'll help you out there. I
14 want to be fair.

15 BY CAPTAIN LINLOR:

16 Q That's what I was trying to go -- I'm not
17 caring about -- I don't know what -- I don't even do
18 Facebook, so I don't even know what, you know -- I don't
19 know what you friend or don't friend or, you know, keep
20 track of bonus points or auto shops.

21 Was there any information related to this
22 case -- and that's the only -- that's the only framing

1 of any questions that I have -- that you attempted to
2 retain from your social media accounts?

3 A There was no information regarding this case
4 on any social media.

5 Q Did you put -- did you make any -- any
6 requests at the time to -- meaning around March of 2016,
7 or in the few months afterwards, two or three months
8 afterwards, to have them suspend any deleting of
9 information so that that could -- so what you just said
10 could be confirmed?

11 A You mean having the social media actual
12 company suspend?

13 Q Yeah.

14 A I did not.

15 Q Did you make screen captures of any of your
16 message traffic with any of your friends on Facebook or
17 Tumblr?

18 A There was no traffic regarding this case on
19 any social media.

20 Q You didn't make any copies of any -- of any --
21 of your traffic at the time to be able to demonstrate
22 what you just said?

1 A There was nothing to take a screenshot of.

2 Q You had no -- you had no message traffic at
3 all with any of your friends in the six months after
4 this incident, starting on March 10, 2016?

5 A In regards to this case, there was nothing.

6 Q That wasn't my question, Mr. Polson. Was
7 there any -- did you have any message traffic on social
8 media with any of your friends for six months after this
9 case?

10 A I would guess, yes. I typically try to reach
11 out on birthdays, and I would imagine that there was
12 probably a birthday within that six-month time frame.

13 Q Did you make any attempts to document and
14 retain any of your message traffic so that if it was
15 later a question, if you were or were not discussing
16 topics related to this case, that it would be shown one
17 way or another definitively?

18 A I made an active -- I actively did not speak
19 about this case on any social media to the extent that I
20 would not need to retain any information or screenshots
21 or messages.

22 Q What proof do you have of that?

1 A I'm here to speak to it under oath.

2 Q Isn't that also possibly considered
3 self-serving?

4 A Excuse me?

5 Q Isn't that possibly considered self-serving?

6 A Can you define self-serving, please, for me,
7 for this context?

8 Q Doesn't it -- you're saying it, but you don't
9 have any independent proof of it. So if you weren't
10 being truthful, which I hope you are, but if you weren't
11 being truthful, there'd be no evidence because the
12 evidence was not retained; correct?

13 A If there is no evidence, there's nothing to
14 retain.

15 Q There is no -- okay. Was there -- did you
16 have a cell phone at the time, on March 10th, 2016?

17 A I did.

18 Q Did you make any attempts to retain any text
19 messages or other message traffic on your cell phone
20 during the time after this case?

21 A Upon receiving the subpoena and request to
22 keep all documentation, I looked through, but there was

1 nothing -- no conversations were ever made regarding
2 this case.

3 Q Did you have any contact with anyone from --
4 when was the first time after this incident that you had
5 any contact with TSA regarding this case?

6 A The first time I was called into legal's
7 office at Dulles Airport, the TSA attorney there was
8 Mr. Noonan.

9 Q And when was that, please?

10 A I don't remember the date, sir. I was still
11 employed with TSA at the time.

12 Q So that would have been before September 2016;
13 correct?

14 A I would believe so, yes.

15 Q And would -- when you're having that
16 discussion with Mr. Noonan, you had not had any other
17 discussions regarding this case with anyone between
18 March 10, 2016, and September, whatever date it was,
19 2016?

20 A It was not a case. And even at that moment,
21 he said it was a possibility of something being filed
22 within the District Court of Alexandria. It was just a

1 simple, here is a heads-up that something might be
2 coming your way. It was -- nothing else was given.

3 Q Was there a -- even before the case, were
4 there any discussions regarding retaining evidence that
5 you had with TSA between March 10, 2016, and September
6 2016?

7 A No.

8 Q So you never discussed this case with anyone
9 from TSA in any capacity between 10 March 2016 -- not
10 including -- 10 March 2016, and afterwards?

11 A To the best of my knowledge, I did not.

12 Q Do you still believe that there was no request
13 to press charges against you made by me on 10 March
14 2016?

15 A There was a --

16 MR. SYLVERTOOTH: I'm sorry. Form. And I'm
17 just making that form because that's a
18 mischaracterization of the testimony.

19 CAPTAIN LINLOR: Okay.

20 MR. SYLVERTOOTH: He never said that you never
21 made the request. That's a misstatement.

22 CAPTAIN LINLOR: Okay.

1 MR. SYLVERTOOTH: Are you talking about --
2 maybe you want to use another word? I'm just --

3 CAPTAIN LINLOR: Can you read back by
4 question, please, so I can rephrase it?

5 (Thereupon, the court reporter read back the
6 requested testimony.)

7 BY CAPTAIN LINLOR:

8 Q Let me try a better stab with that.

9 Do you believe that I claimed I wanted to
10 press charges against you via statements that I made on
11 March -- 10 March 2016?

12 A Yes.

13 Q Would -- do you believe that those charges --
14 do you understand the difference between civil and
15 criminal charges?

16 A I believe I have a general understanding, but
17 I have not been trained on either difference in a legal
18 standpoint.

19 Q They're both charges; correct?

20 A I would agree. You go to court for either
21 one, is my understanding. That's -- I mean, the
22 difference being --

1 Q I'm sorry?

2 A Please, go ahead.

3 Q Did you make any efforts to retain any
4 information related to this case -- related to potential
5 charges, civil or criminal, to help exonerate you in
6 case of those charges?

7 A I did not on that day.

8 Q Did you make any attempts afterwards?

9 A After receiving the actual documentation of
10 this being a case, it was notified that anything I had I
11 should retain, and I searched and I retained anything
12 that would be relevant.

13 Q You did not -- I believe you said before you
14 did not make any requests to retain any of the video?

15 A I said I do not recall making a request.

16 Q There was one video provided over to me by
17 TSA. How did that video get retained; do you know?

18 A I do not.

19 Q Do you know how that one video was selected?

20 A I do not.

21 Q Do you know the chain of custody about that
22 video?

1 A I do not.

2 Q Do you know any -- the word is provenance, and
3 I learned this -- any provenance of the video related
4 to, has it been altered in any means like this?

5 A To my knowledge, it has not been altered, but
6 I am not aware of anything with the video anyway. I
7 haven't seen it.

8 Q So you deny that you used excessive force
9 against me during the pat down on 10 March 2016;
10 correct?

11 A That is correct.

12 Q Do TSA regulations permit use of excessive
13 force in passenger pat downs?

14 A Again, I do not recall any specific
15 regulations on excessive force being taught in training
16 or provided in SOP.

17 I would make, in my opinion, a general
18 statement, that there's -- they would expect all
19 officers to act in a professional matter.

20 Q So would you agree based on that that TSA
21 regulations do not permit use of excessive force against
22 passengers during pat downs?

1 A I couldn't speak to that, sir.

2 Q Do you deny that you were placed under
3 citizen's arrest on allegations of federal sexual --
4 felony sexual battery by me on 10 March 26?

5 A I do not recall being placed under any
6 citizen's arrest on 10 March 2016.

7 Q You had made the statement before that from
8 your experience as a Secret Service officer, that you
9 relay custody of suspects over to local police if it
10 were outside of your jurisdiction; correct?

11 A No, that is not correct.

12 Q Can you please correct me then. What is --
13 what is the policy regarding transfers of custody to
14 local police?

15 A We -- so for me if I -- if I make an arrest
16 specifically on domestic violence, for an example, if
17 there was a domestic violence at home and I was off
18 duty, I would be able to detain that person, contact the
19 police, and local police would respond. I would then
20 provide a witness statement on a law enforcement or any
21 other aspect to it, and then they would make the actual
22 arrest of that individual.

1 Q Would you have already placed that person into
2 custody?

3 A Yes.

4 Q In what capacity?

5 A I would have put him in handcuffs or --

6 Q Let me -- I'm sorry, let me clarify my
7 question.

8 Would you have put him into custody as -- in
9 your capacity as a Secret Service agent, law enforcement
10 officer or individual person on the street?

11 A I would understand it as my capacity as a law
12 enforcement officer.

13 Q Do you have limits on the jurisdiction of your
14 law enforcement authority?

15 A Yes.

16 Q What are those limits and how does it work?

17 A Title 18, USC 3056 Alpha gives me my specific
18 United States Secret Service Uniform Division powers
19 similar to and of D.C. police, meaning I have a D.C.
20 code that I can enforce, as well as federal code as a
21 Secret Service officer. And so therefore, if any
22 federal law is broken, I can make an arrest upon, and

1 anything within D.C. against a D.C. code, would be
2 something I can make an arrest on.

3 Q So anything that is not one of those codes,
4 can you still make an arrest?

5 A I would feel uncomfortable doing so.

6 Q What if it were a felony -- you mentioned
7 before, a felony crime occurred in front of you. Would
8 you -- not that you would make an arrest, okay, so I'm
9 not questioning you know -- I don't want to put you on
10 the spot for that because that's situational. There
11 could be a lot of reasons why you would or wouldn't
12 based upon who is doing the harming and who is being
13 harmed. But who -- but would you have the authority to
14 make an arrest if it were outside of your jurisdiction?

15 A I do not believe I would.

16 Q Do you agree that such a thing as a citizen's
17 arrest exists?

18 A I have not been trained on a legal standpoint
19 of citizen's arrest.

20 Q Do you have an opinion whether a citizen's
21 arrest exists in common law?

22 MR. SYLVERTOOTH: Form.

1 BY CAPTAIN LINLOR:

2 Q Do you have an opinion on whether a citizen's
3 arrest exists in the United States?

4 MR. SYLVERTOOTH: Form.

5 CAPTAIN LINLOR: How can I help you, Counsel?

6 MR. SYLVERTOOTH: You're asking for a legal
7 conclusion. I'm going to make those objections, so --

8 CAPTAIN LINLOR: Okay. Okay. Okay. I
9 just --

10 I'm trying --

11 MR. SYLVERTOOTH: That's fine.

12 CAPTAIN LINLOR: If I can clarify something, I
13 am trying to clarify it.

14 MR. SYLVERTOOTH: I appreciate that.

15 BY CAPTAIN LINLOR:

16 Q I don't believe I'm asking for a legal
17 conclusion. I'm asking for -- I'm not asking about the
18 efficacy of a citizen's arrest. I'm not asking for
19 details. I'm asking generally. Have you ever heard the
20 term citizen's arrest being used?

21 A Yes.

22 Q Under what -- in what capacity or what

1 circumstances did you hear the term citizen's arrest
2 being used?

3 A You've been speaking about it numerously
4 today.

5 Q Have you ever heard about it anywhere else?

6 A I believe I've read books about it, within the
7 context of the book, but not as a legal or teaching
8 research purpose.

9 Q So if someone were to say they were placing
10 you under citizen's arrest, would your opinion be to
11 disregard them as not knowing what they're talking
12 about?

13 A No.

14 Q Would you take the claim of being under
15 citizen's arrest seriously?

16 A If I understood what was going on, I could
17 take different actions based upon it.

18 Q If you were being alleged for a felony sexual
19 battery, would that be a serious allegation in your
20 opinion?

21 A It is a serious allegation.

22 Q Would you -- if you were accused of a felony

1 sexual battery, what actions would you take if you -- if
2 someone claimed they had put you under citizen's arrest?

3 A As -- so my standpoint would be as the suspect
4 or the victim, sir? I didn't understand the question.
5 I apologize.

6 Q As the suspect.

7 A As a suspect of someone who committed a felony
8 sexual assault on someone else?

9 Q Yes.

10 A And that someone else is saying that I'm under
11 citizen's arrest?

12 Q Yes.

13 A And there are police present?

14 Q Not yet, but let's say at some point there are
15 afterwards.

16 A Am I -- am I detained in any capacity?

17 Q Yes.

18 A Okay. What capacity am I detained in?

19 Q You've been placed under citizen's arrest.

20 A So by detained, I mean like am I free to move?
21 Am I restrained in any way? Am I cornered?

22 Q You've been asked to stay there until the

1 police arrived.

2 A I would not take that as a serious arrest of
3 any form. If there's still freedom of movement, then I
4 wouldn't even feel detained.

5 Q Would you -- if this would have happened
6 outside of work, would you act differently than you
7 would at work from TSA?

8 A No.

9 Q Do you think that your role as a TSO granted
10 you special immunities?

11 A No.

12 Q Did it grant you special privileges?

13 A Yes.

14 Q What privileges did it grant you?

15 A I was given a clearance and ability to see the
16 inner-working of the TSA and how to screen passengers
17 appropriately for travel.

18 Q What clearance did you receive?

19 A If I remember correctly, the TSA clearance is
20 a public trust or something. My military clearance that
21 I still had was higher than what TSA gave.

22 Q What military clearance did you have?

1 A Coming out of active duty, I retained a Secret
2 clearance.

3 Q Secret clearance?

4 A That is correct.

5 Q Is that still active?

6 A No. Well, my military clearance of Secret is
7 active, and now I have a TS SCI for Secret Service.

8 Q When did you submit the information for your
9 TS SCI? What is SCI?

10 A Special Compartmentalized Information.

11 Q And that's something -- what is that, please?

12 A Special Compartmentalized Information, or SCI,
13 would be special programs within that level of clearance
14 that you learn about and therefore have a need to know
15 and then the actual clearance to access it. So it gives
16 you the ability to learn about new programs within your
17 area that require a clearance.

18 Q Okay. Do you think that --

19 CAPTAIN LINLOR: We'll try and wrap this up so
20 we can get you out of here and get Mr. Whetsell in here.

21 BY CAPTAIN LINLOR:

22 Q Do you think that your -- does an SCI

1 clearance require you to divulge pending litigation?

2 A My TS SCI that I currently possess involved a
3 wide variety of not only SF86, but also a polygraph
4 confirming everything within it.

5 Q Did you disclose any information about the
6 existence of this case in your -- in your secret -- Top
7 Secret SCI?

8 A Not to my knowledge.

9 Q Were you obligated to?

10 A At the time I submitted my SF86, not to my
11 knowledge.

12 Q Were you required to update that information?

13 A I've been updating my information.

14 Q To -- who is the security group that you would
15 update it to for Secret Service?

16 A My own agency has a clearance division. So as
17 I move through the case, I forward documentation to
18 them.

19 Q So they are aware of this case?

20 A They are.

21 Q Are they aware that you have been alleged to
22 have been placed under citizen's arrest?

1 A They have received all documentation formally
2 filed with the court.

3 Q Are you aware that video -- the video
4 evidence, the one DVD, was submitted on your behalf by
5 your counsels to the court as part of what is called a
6 12(b)6 Motion?

7 A I was not aware of the motion.

8 Q Were you aware that the video was submitted to
9 the court as evidence?

10 A I believe it was, yes.

11 Q Do you believe that it was submitted because
12 it was critical of the case?

13 A I would believe that it was.

14 Q Do you believe that it would -- was intended
15 to exonerate you?

16 A I have not seen the video, nor do I know what
17 it pertains inside the video. I would assume that
18 anything submitted would exonerate me as I still hold
19 that nothing happened on that day.

20 Q Do you -- did you -- not having seen the
21 video, but in the documents that were filed on your
22 behalf representing you, did you claim the video to be

1 critical evidence in this case?

2 A I would think it to be critical.

3 Q If one video were critical evidence, wouldn't
4 other videos from different -- from other angles also be
5 critical?

6 A I don't know what the other cameras showed,
7 nor would I know what other video might be available
8 or --

9 Q It's an opinion. And certainly, you know,
10 that's -- we've already covered where cameras might or
11 might not be located and all of that. But if there were
12 other videos, given that this one video is critical,
13 wouldn't all videos, especially until they were
14 reviewed, be critical?

15 MR. SYLVERTOOTH: Form.

16 CAPTAIN LINLOR: How can I clarify, Counsel?

17 MR. SYLVERTOOTH: Speculation. That question,
18 no matter how you phrase it, is going to be speculation.

19 CAPTAIN LINLOR: Okay. Let's try a different
20 way here.

21 BY CAPTAIN LINLOR:

22 Q Is it correct that you said before that video

1 evidence is extremely beneficial to a case?

2 A Is that a question or a statement, sir?

3 Q Yes, that's a question. Did you state -- I
4 believe you stated before that video evidence, in
5 general, is very beneficial to as evidence in a case?

6 A I would believe it to be beneficial, yes.

7 Q And in this case, one -- we've already
8 established with you that one video was critical, you
9 agree, in this case; correct?

10 A Yes.

11 Q So the question I'm trying to -- I ascertained
12 is that you deny that other videos, whether or not you
13 know what they hold, if other videos could equally be
14 holding critical information?

15 A I would disagree just because I don't know
16 what those other videos might hold or not. They could
17 be as insignificant as anything and show something that
18 isn't relevant to the case.

19 Q In your opinion, would it be prudent for
20 someone in a situation like yours to try to retain video
21 evidence to prove your innocence or possible guilt?

22 A I wouldn't have any powers regardless. I

1 would simply have to process the proper requests through
2 my counsel for any video that I could get. Whatever I
3 can't get, I can't get.

4 Q Did you ever make any attempts to retain any
5 evidence in this case?

6 A I believe that there was a process done
7 through my attorney to receive any video of the
8 incident.

9 Q Did you represent yourself as a law
10 enforcement officer in your initial claim for immunity?

11 A I don't recall.

12 Q Did you review the documents submitted by your
13 attorney on your behalf at the initial 12(b)6 hearing?

14 A I've reviewed all documentation provided to
15 me.

16 MR. SYLVERTOOTH: Captain Linlor, I think he
17 would understand better if you say motion to dismiss.
18 You're saying 12(b)6. I don't think he realizes that's
19 the same.

20 CAPTAIN LINLOR: I'm sorry. Thank you,
21 Counsel. Thank you.

22 MR. SYLVERTOOTH: I think you're --

1 CAPTAIN LINLOR: I appreciate that.

2 So can you please read back my question and
3 I'll substitute words in.

4 (Thereupon, the court reporter read back the
5 requested testimony.)

6 BY CAPTAIN LINLOR:

7 Q So let's replace 12(b)6 hearing with motion to
8 dismiss as a better phraseology.

9 Could you please answer the question?

10 A Again, I've reviewed all documents that have
11 been provided to me by my counsel.

12 Q And you agree with them?

13 A I believe them to be true and accurate as they
14 filed them.

15 Q On that previous table, I don't remember --
16 was page 26, but it was -- it was that table with the
17 name of the witnesses that we were discussing.

18 MR. SYLVERTOOTH: I think it's 6.

19 BY CAPTAIN LINLOR:

20 Q I think you're familiar with it. Exhibit --
21 yeah, exactly.

22 It lists on the last row of the table the word

1 custodian.

2 A Do you know what page it's on, sir?

3 Q On the top of my head, no, but I'm going to
4 find it pretty quickly.

5 MR. SYLVERTOOTH: 26.

6 BY CAPTAIN LINLOR:

7 Q There we go, 26.

8 CAPTAIN LINLOR: Thank you, Counsel.

9 MR. SYLVERTOOTH: No. I'm sorry.

10 CAPTAIN LINLOR: 29?

11 MR. SYLVERTOOTH: That's on the spoliation
12 one; right?

13 CAPTAIN LINLOR: I believe so. It's on
14 several --

15 MR. SYLVERTOOTH: So that's on Exhibit 5 --
16 no.

17 THE WITNESS: Is it 1?

18 MR. SYLVERTOOTH: Exhibit 1, that's right.
19 Sorry.

20 CAPTAIN LINLOR: Okay. There we go.

21 MR. SYLVERTOOTH: 26, though, I know that.

22 BY CAPTAIN LINLOR:

1 Q It's in several.

2 A No, I don't think it's 6 -- 26.

3 MR. SYLVERTOOTH: No?

4 BY CAPTAIN LINLOR:

5 Q It's also in the reply to the TSA motion on
6 page 19, if you want there.

7 A Page 19 you said; correct?

8 Q Yes.

9 A Okay. I see the table, sir.

10 Q So on the last row, custodian.

11 A Yes.

12 Q And the subject matters are what, please? Can
13 you read those, please?

14 A In the table next to custodian Transportation
15 Security Administration under subject matters, first
16 bullet, video footage from the closed circuit television
17 concerning the March 10, 2016, incident, which is the
18 subject matter of the instant civil action. Second
19 bullet, policies and procedures relating to the
20 recording and preservation of video footage. And --

21 Q So who is the custodian?

22 A To my knowledge, my attorneys filed this

1 paperwork to the best -- like I provided them with all
2 the facts they would -- that I could give them, and they
3 filled in the rest. So this isn't something I could
4 answer.

5 Q What efforts did you make to identify the
6 custodian?

7 A I don't know who the custodian is, sir.

8 Q What -- I understand that. What efforts did
9 you make to identify the custodian?

10 A I conferred with my attorneys about all
11 persons that I'm aware of related to the case.

12 Q Did you ask anyone else at TSA other than your
13 attorneys or at MWAA about video evidence?

14 A I did not.

15 Q May I ask why not?

16 A Because I was doing everything through my
17 attorneys.

18 Q And your attorneys did not inform you about
19 any obligation you had to make efforts?

20 MR. SYLVERTOOTH: I'm going to instruct him
21 not to answer.

22 CAPTAIN LINLOR: Sorry, withdrawn. Sorry,

1 withdrawn.

2 BY CAPTAIN LINLOR:

3 Q In your opinion, if you saw, custodian
4 Transportation Security Administration, would you know
5 how to track that person down?

6 A I would go through the attorneys who had
7 provided me with this documentation.

8 Q But those -- it says, contact information
9 unknown, not contact -- do you see under your name it
10 says, contact through undersigned counsel. Here it's,
11 contact information unknown, which means that your
12 attorneys are not putting themselves out as contacts for
13 this. So where do you believe in your opinion somebody
14 would go to obtain that information?

15 A I can only speculate. I don't know where they
16 went for a lot of the information in here.

17 Q It seems kind of difficult to track something
18 down though for a custodian. Custodian sounds like it's
19 the janitor; doesn't it, question?

20 A I was a records custodian in the military.
21 That didn't make me a clean up person.

22 Q Good point. I stand corrected. It really

1 hadn't occurred to me. So thank you. That's a big
2 difference.

3 Do you agree, though, that you have made good
4 efforts to retain all evidence for the efforts you have
5 done?

6 A Yes.

7 Q Did you ever receive any information of the
8 need to retain evidence prior to September 2016?

9 A I'm sorry?

10 Q Did you ever receive any need to retain
11 evidence prior to 2016?

12 A I don't remember the date that I first
13 received notification of this case being on the docket
14 with the District Court of Alexandria. I would say that
15 that date or after is when I made my first efforts.

16 Q There were records retention requests sent to
17 TSA and MWAA on 11 March 2016, the day after. Did you
18 receive any notification from MWAA or TSA about those
19 requests?

20 A I was not.

21 Q And you did not believe that it was in your
22 personal responsibility to try to retain any evidence?

1 A No.

2 CAPTAIN LINLOR: Okay. I think I would like
3 to stop the deposition at this point. Thank you for
4 your time. We can go off the record. You're no longer
5 under oath.

6 Sorry?

7 MR. SYLVERTOOTH: The proper procedure is
8 whether or not I have any questions.

9 CAPTAIN LINLOR: I'm so sorry, Counsel. Do
10 you have any questions?

11 MR. SYLVERTOOTH: No.

12 CAPTAIN LINLOR: Thank you. I apologize.

13 THE VIDEOGRAPHER: We're going off the record
14 at 1:59.

15 COURT REPORTER: Did you want to order the
16 transcript?

17 CAPTAIN LINLOR: Yes.

18 MR. SYLVERTOOTH: I'll get back to you. I
19 will get a copy, but I have to get back to you. And he
20 will read.

21

22

1 ERRATA SHEET

2 Job No. 65786

3 Case Caption: LINLOR vs. POLSON

4 Deposition Date: Friday, October 20, 2017

5 DECLARATION UNDER PENALTY OF PERJURY

6 I declare under penalty of perjury that I have
7 read the entire transcript of my Deposition taken in the
8 captioned matter or the same has been read to me, and
9 the same is true and accurate, save and except for
10 changes and/or corrections, if any, as indicated by me
11 on the DEPOSITION ERRATA SHEET, hereof, with the
12 understanding that I offer these changes as if still
13 under oath.

14 Signed on the ____ day of _____, 20____.

15

16

17 Subscribed to and sworn before me this ____ day
18 of _____, 20__, in _____.

19

20 Notary Public

21 My commission expires: _____, 20____.

22 Notary Public Registration No.

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1 CERTIFICATE OF NOTARY PUBLIC

2 I, Janie Arriaga, Court Reporter, before
3 whom the foregoing deposition was taken, do hereby
4 certify that the witness whose testimony appears in
5 the foregoing deposition, was duly sworn by me; that
6 the testimony of said witness was taken by me
7 stenographically, and that I, thereafter, reduced it
8 to typewriting; that said deposition is a true
9 record of the testimony given by said witness; that
10 I am neither counsel for, related to, nor employed
11 by any of the parties to the action in which this
12 deposition was taken; and further, that I am not a
13 relative or employee of any attorney or counsel
14 employed by the parties thereto; nor financially or
15 otherwise interested in the outcome of the action.

16 

18 _____
19 Janie Arriaga
20 Notary Public in and for the
21 Commonwealth of Virginia
22

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